



Transportation Security Administration

ACI-NA Legal Affairs Conference

Francine Kerner
TSA Chief Counsel
April 18, 2008

Contents

- Visible Intermodal Prevention and Response Teams (VIPR)
- REAL ID Act & Future of ID Requirements
- Hot Topics in Enforcement
- Checkpoint Evolution
- TSA Blog



Visible Intermodal Protection and Response (VIPR) Teams – Authority Overview

- Authorized by the Aviation and Transportation Security Act (ATSA) as part of TSA's authority to protect all modes of transportation from terrorist attacks. 49 USC § 114 (d),(f).
- The TSA Administrator has authority to develop VIPR teams to augment the security of any mode of transportation at any location within the U.S., using any asset of DHS, including FAMs, surface transportation security inspectors, canine detection teams, and advanced screening technology. Implementing Recommendations of 9/11 Commission Act of 2007, § 1303 (P.L. 110-53), 6 USC § 1112.



VIPR

- Purpose. VIPR teams operate throughout the airport environment as an additional layer of security to enhance TSA's ability to prepare for, protect against, or respond to acts of terrorism and to protect persons, facilities, and critical infrastructure in all modes of transportation.
- Operational Protocol. TSA has the authority to determine the timing, location, and duration of a VIPR deployment. TSA consults with local security and law enforcement officials in the jurisdiction prior to and during the deployment to develop and agree upon the appropriate operational protocols and to provide relevant information about the VIPR mission, as appropriate.
- Transportation Community. Prior to and during deployment, TSA will consult with all transportation entities, as appropriate, that are directly affected by the deployment of a VIPR team.



VIPR

- Inspection. VIPR teams may approach people and ask questions; examine bags or accessible property; search vehicles approaching the airport parking areas or terminals; conduct searches of persons or accessible property; or patrol the airport environment to detect suspicious activity. All VIPR actions are intended to counteract the threat posed by explosives, weapons, or terrorist activity in the airport.
- Unpredictability and Randomness. The specific activity of VIPR teams may vary from airport to airport. At each location, the selection of VIPR activities will take into account the particular security needs of the airport. This variety ensures an element of unpredictability in security operations, making it more difficult for would-be terrorists to anticipate and defeat the security measures. Flexibility in VIPR activities also enables the operations to best meet the needs of each airport.



VIPR Program Management

- VIPR Program is managed by Office of Law Enforcement/Federal Air Marshals Service (OLE/FAMS).
- The TSA Joint Coordination Center (JCC), supervised by OLE/FAMS, is the nationwide coordination and logistics point for all VIPR deployments in the field and other special operations/assignments. JCC is the one TSA VIPR/special operations point of contact/information resource for the TSA Administrator.
- VIPR exercises are initiated when TSA Administrator receives specific intelligence, at the discretion of the Administrator, or via request from the field/stakeholders.
 - TSA Office of Intelligence in conjunction with the JCC also recommends locations for VIPR exercises to TSA senior leadership.
 - All local or regional VIPR deployments include an operations plan that will be submitted to, reviewed, and approved by the JCC.
- At conclusion of VIPR deployment, the Federal Security Director and FAMS Special Agent in Charge submit an after action report to the JCC.



VIPR: Special Needs Searches

- To date, TSA has conducted over 200 VIPR exercises. Approximately 10% of VIPR exercises have involved searches.
- In the airport, TSA will work with the local law enforcement officers (LEO) and the airport operator to conduct vehicle screening. In other modes, TSA will work with the operator and LEO to conduct screening of individuals and/or their property.
- Searches carried out by VIPR teams are considered special needs or administrative searches, an exception to the normal rule under the Fourth Amendment that any searches undertaken by the government must be based on probable cause or reasonable suspicion. VIPR searches aim to ensure the safety of the traveling public, a goal that goes well beyond the ordinary criminal-enforcement need of discovering contraband.
- Because these operations are special needs searches, the first question is what the search is intended to find.
 - Curbside searches of vehicles. TSA is looking for large vehicle born Improvised Explosive Devices (IEDs). Therefore, TSA will only look in places of the car where one could be hidden (in the trunk, under the car, and in the back seat).
 - Searches of people and belongings at other modes. TSA is looking for explosives that could be on the person or their bag.



VIPR: Legal Perspective

- Case Law. The Supreme Court has repeatedly upheld suspicion-less searches based on the government's need to ensure the safety of mass transportation.
 - Michigan Dep't of State Police v. Sitz, upholding driver sobriety checkpoints for automobiles. 496 U.S. 444 (1990).
 - Skinner v. Railway Labor Executives' Ass'n, upholding drug testing of railroad employees. 489 U.S. 602 (1989).
 - Illinois v. Lidster, upholding vehicle checkpoints to find information about hit and run. 540 U.S. 419, 426-27 (2004).
 - City of Indianapolis v. Edmond, finding violation of Fourth Amendment in vehicle checkpoint operated for the purpose of ordinary crime control, but noting that "[o]ur holding also does not affect the validity of * * * searches at places like airports and government buildings, where the need for such measures to ensure public safety can be particularly acute." 531 U.S. 32, 47-48 (2000).
 - United States v. Martinez-Fuerte, upholding border checkpoints, where vehicles are routinely stopped and selectively directed to secondary inspection. 428 U.S. 543, 546-47 (1976).



Department of Homeland Security **Office of Inspector General**

Efficiency and Effectiveness of TSA's Visible Intermodel Prevention and Response Program Within Rail and Mass Transit Systems (Redacted)






OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

August 15, 2012

MEMORANDUM FOR: The Honorable John S. Pistole
Administrator
Transportation Security Administration

FROM: Charles K. Edwards 
Acting Inspector General

SUBJECT: *Efficiency and Effectiveness of TSA's Visible Intermodal
Prevention and Response Program Within Rail and Mass
Transit Systems*
OIG Project No. 11-073-ISP-TSA

Enclosed for your information is our final report entitled, *Efficiency and Effectiveness of TSA's Visible Intermodal Prevention and Response Program Within Rail and Mass Transit Systems – Sensitive Security Information*. We incorporated the formal comments from the Transportation Security Administration (TSA) in the final report.

The report contains 16 recommendations aimed at improving the Visible Intermodal Prevention and Response Program. Your office concurred with 12 of the recommendations and did not concur with 4 recommendations. Based on information provided in your response, all recommendations are resolved and open. As prescribed by the Department of Homeland Security Directive 077-1, Follow-Up and Resolutions for the Office of Inspector General Report Recommendations, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered resolved and open.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post a redacted version of the report on our public website.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

Should you have any questions, please call me, or your staff may contact Carlton I. Mann, Assistant Inspector General for Inspections, at (202) 254-4100, or Marcia Moxey Hodges, Chief Inspector, at (202) 254-4202.

Enclosure



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Table of Contents

Executive Summary	1
Background	2
Results of Review	12
VIPR Program Improvements Have Enhanced Its Effectiveness	12
Recommendations	16
Management Comments and OIG Analysis	16
Centralized Operational Guidance Is Needed To Clarify Law Enforcement Activities on VIPR Operations	18
Recommendation.....	28
Management Comments and OIG Analysis	28
TSA Has a Methodology To Select VIPR Deployments, But Additional Enhancements Are Needed	28
Recommendation.....	35
Management Comments and OIG Analysis	35
Organizational Placement Within TSA Hinders VIPR Program Effectiveness	35
Recommendations	40
Management Comments and OIG Analysis	40
VIPR Team Resource Allocation Is Disproportionate.....	42
Recommendations	50
Management Comments and OIG Analysis	50
Length of VIPR Team Member Assignments Hinders Program Effectiveness.....	51
Recommendation.....	54
Management Comments and OIG Analysis	54



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Transportation Security Inspector Roles and Responsibilities Are Performed Inconsistently	55
Recommendation.....	57
Management Comments and OIG Analysis	58
Canine Teams Add Value to VIPR Operations.....	58
Recommendation.....	60
Management Comments and OIG Analysis	60
Standardized VIPR Training and Team Participation in Joint Exercises Is Needed.....	61
Recommendations	64
Management Comments and OIG Analysis	64
Equipment Maintenance Enhances Effectiveness, and OSO Safety Gear May Be Necessary	65
Recommendations	67
Management Comments and OIG Analysis	67
Conclusion	68

Appendixes

Appendix A: Purpose, Scope, and Methodology	69
Appendix B: Recommendations.....	72
Appendix C: Management Comments to the Draft Report	74
Appendix D: Distribution of Priority Transportation Venues and Entities by VIPR Team Areas of Responsibility	83
Appendix E: Major Contributors to This Report	84
Appendix F: Report Distribution	85

Abbreviations

AFSD-LE	Assistant Federal Security Director-Law Enforcement
BDO	Behavioral Detection Officer
DNDO	Domestic Nuclear Detection Office
DHS	Department of Homeland Security
DOP	Deployment Operations Plan



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

FAMS	Federal Air Marshal Service
FSD	Federal Security Director
FY	fiscal year
JCC	Joint Coordination Center
OIG	Office of Inspector General
OLE	Office of Law Enforcement
OSO	Office of Security Operations
PRND	Preventative Radiological/Nuclear Detection
SAC	Supervisory Federal Air Marshal in Charge
SFAM	Supervisory Federal Air Marshal
TSA	Transportation Security Administration
TSI	Transportation Security Inspector
TSNM	Transportation Sector Network Management
TSO	Transportation Security Officer
TSS-E	Transportation Security Specialist–Explosives
VIPR	Visible Intermodal Prevention and Response



Executive Summary

The *Aviation and Transportation Security Act*, as amended, established the Transportation Security Administration (TSA) and tasked it with securing all modes of transportation. TSA's authority to implement the Visible Intermodal Prevention and Response (VIPR) Program was codified in the *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended, which authorized TSA to use any Department of Homeland Security (DHS) asset for VIPR teams.

TSA deploys VIPR teams to augment local, State, and Federal entities' efforts to enhance security on U.S. critical transportation infrastructure. VIPR teams screen passengers, look for suspicious behavior, and act as a visible deterrent for potential terrorist acts. VIPR teams often include Federal Air Marshals, Transportation Security Officers, Surface Transportation Security Inspectors, canine detection teams, explosives detection specialists, Behavior Detection Officers, and Federal, State, and local law enforcement officers.

We assessed TSA efforts to deploy VIPR teams to augment security in rail and mass transit systems as part of our *Fiscal Year 2011 Annual Performance Plan*. Specifically, we reviewed whether TSA has a methodology to select VIPR deployments; whether geographic location and critical infrastructure affect the conduct of VIPR team operations; and whether VIPR teams are efficient and effective in augmenting local, State, and Federal efforts to enhance security on rail and mass transit systems.

TSA has improved the VIPR Program since its inception; however, organizational, programmatic, and operational challenges remain. We are making 16 recommendations to improve the efficiency and effectiveness of TSA's VIPR Program. TSA concurred with 12 recommendations and did not concur with 4 recommendations.



Background

TSA's mission is to protect "the Nation's transportation systems to ensure freedom of movement for people and commerce," and it works closely with transportation, law enforcement, and intelligence community partners and stakeholders to accomplish this task.¹ From 1995 to 2005, more than 250 terrorist attacks occurred worldwide against passenger rail and bus system infrastructure, resulting in approximately 900 deaths and more than 6,000 injuries. After the July 2005 terrorist attacks on subway and bus systems in London, England, and the July 2006 attacks on the rail system in Mumbai, India, TSA further recognized the vulnerabilities of mass transit and enhanced its efforts to protect the Nation's public transportation systems.²

VIPR Program Authorities and Intent

The *Aviation and Transportation Security Act*, as amended, established and assigned TSA the authority and responsibility for security in all modes of transportation.³ Congress further clarified TSA's authorities in augmenting the security of any mode of transportation in the United States with the *Implementing Recommendations of the 9/11 Commission Act of 2007* (9/11 Act).⁴ The 9/11 Act authorized TSA to form VIPR teams, which can include any DHS asset, such as Federal Air Marshals (FAMs), Surface Transportation Security Inspectors (TSIs), explosive detection canine teams, and screening technologies. The 9/11 Act also directed TSA to collaborate with local security and law enforcement officials to deploy VIPR teams appropriately.

The VIPR Program is one component of TSA's multilayered defensive approach to transportation security, and it is intended to augment the security of any mode of transportation at any location within the United States. VIPR operations are targeted and customized deployments of Department personnel and assets with varying capabilities to "provide a visible presence to detect, deter, disrupt, and defeat

¹ TSA: Mission, Vision, and Core Values. www.tsa.gov.

² On July 7, 2005, terrorists detonated four bombs in London, England's subway and bus systems that killed 52 and injured 700. On July 11, 2006, seven bombs were detonated throughout Mumbai, India's suburban railway system, killing 209 and injuring 700.

³ Public Law 107-71, as amended (November 19, 2001).

⁴ Public Law 110-53, as amended (August 3, 2007).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

suspicious activity while instilling confidence in the traveling public.”⁵ VIPR deployments also enhance TSA’s ability to respond quickly and effectively to incidents with transportation security partners and stakeholders. As VIPR teams become more familiar with transportation venues and operations, the teams augment transit agencies’ security and response plans and can supplement local and transit law enforcement’s response efforts.

VIPR Program Management Structure

TSA’s Office of Law Enforcement/Federal Air Marshals Service (OLE/FAMS) and Office of Security Operations (OSO) jointly implement the VIPR Program. According to the VIPR Program Concept of Operations, OLE/FAMS is the lead TSA office responsible for coordinating the overall program, developing guidelines, and reporting and compiling VIPR standard operating procedures. OSO provides direction to field management that aligns with VIPR policies and guidance.

In August 2007, TSA established the Joint Coordination Center (JCC) at headquarters to monitor logistics, information sharing, and VIPR Program activities nationwide. As shown in figure 1, the JCC is managed by an OLE/FAMS VIPR Program Manager and is staffed by OLE/FAMS and OSO personnel, as well as personnel from other TSA supporting offices. The JCC is responsible for reviewing and managing all VIPR documentation and reporting from the field, establishing coordination and deployment guidelines for operations, and ensuring that all VIPR activities comply with guidance. The JCC is also responsible for ensuring effective information coordination among different TSA offices involved in the VIPR Program.

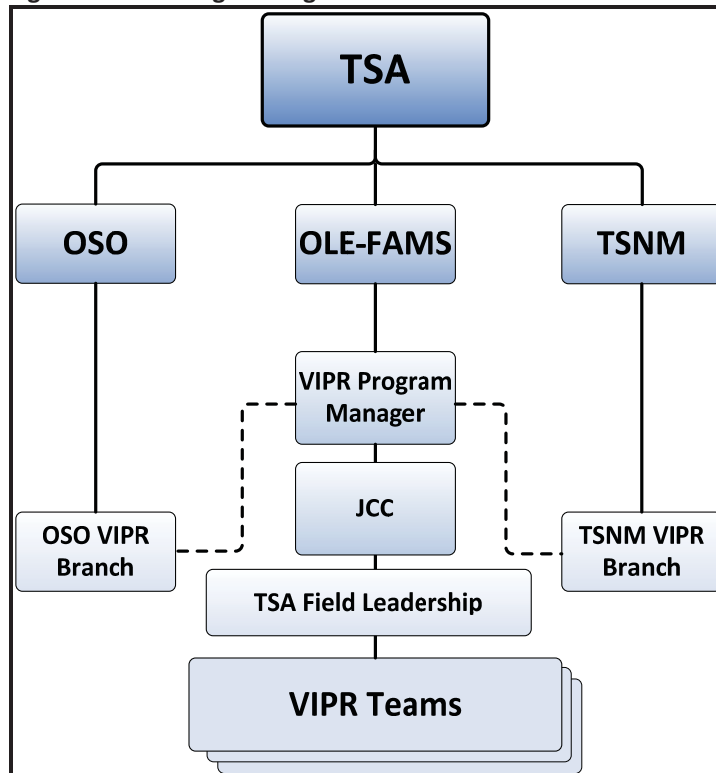
⁵ Draft Template of *VIPR Mass Transit [Annual Open-Ended] Deployment Operations Plan*, April 6, 2010.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Figure 1: VIPR Program Organizational Chart⁶



Source: OIG analysis.

Within areas of responsibility, the OLE/FAMS Supervisory Federal Air Marshal in Charge (SAC) and OSO Federal Security Director (FSD) oversee the VIPR Program and determine whether OLE/FAMS or OSO will manage the program in the field. SACs and FSDs delegate VIPR Program implementation to Assistant SACs and Assistant FSDs, and Supervisory FAMs (SFAM) and Supervisory TSIs can function as primary VIPR team leaders.

VIPR Team Composition and Geographic Distribution

VIPR team operations use different TSA disciplines, including law enforcement, surface transportation inspection, passenger screening, behavior detection, and explosives detection and appraisal. Through coordination with local

⁶ The Office of Transportation Sector Network Management identifies high-risk transportation infrastructure and provides this information to the VIPR Program.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

transportation security and law enforcement, VIPR team composition can be tailored to partner and stakeholder operational needs.

FAMs are TSA's law enforcement officers, authorized to enforce Federal laws in support of transportation security. TSIs inspect transportation venues for compliance with existing security standards and directives. Surface TSIs specialize in mass transit, passenger, and freight rail systems. Behavior Detection Officers (BDOs) are trained to use TSA's Screening Passengers by Observation Techniques to identify suspicious behaviors in transportation venues and refer suspicious individuals to law enforcement.⁷ Transportation Security Officers (TSOs) are trained and certified to perform physical screening and inspection of accessible property within specified TSA protocols. Transportation Security Specialists-Explosives (TSS-Es) are subject matter experts in explosives, including improvised explosive devices and chemical, biological, radiological, and nuclear threats.⁸

Although most of these disciplines have been applied primarily within the aviation environment, they can be used in any transportation mode, including mass transit and passenger rail. In addition, other DHS components, such as U.S. Coast Guard, U.S. Secret Service, and the National Protection and Programs Directorate, may participate in VIPR operations. Figure 2 shows a multidiscipline VIPR team deploying for an operation.

⁷ Screening Passengers by Observation Techniques is a method of identifying persons who may pose a potential security risk by assigning numerical values to behavioral and appearance indicators.

⁸ During our fieldwork, TSA's organizational realignment created a new Security Capabilities Office that incorporates existing Screening Passengers by Observation Techniques and TSS-E headquarters program management functions. However, BDOs and TSS-Es will continue to report to FSDs.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Figure 2: VIPR Team Deploying for an Operation



Source: Stakeholder monthly newsletter.

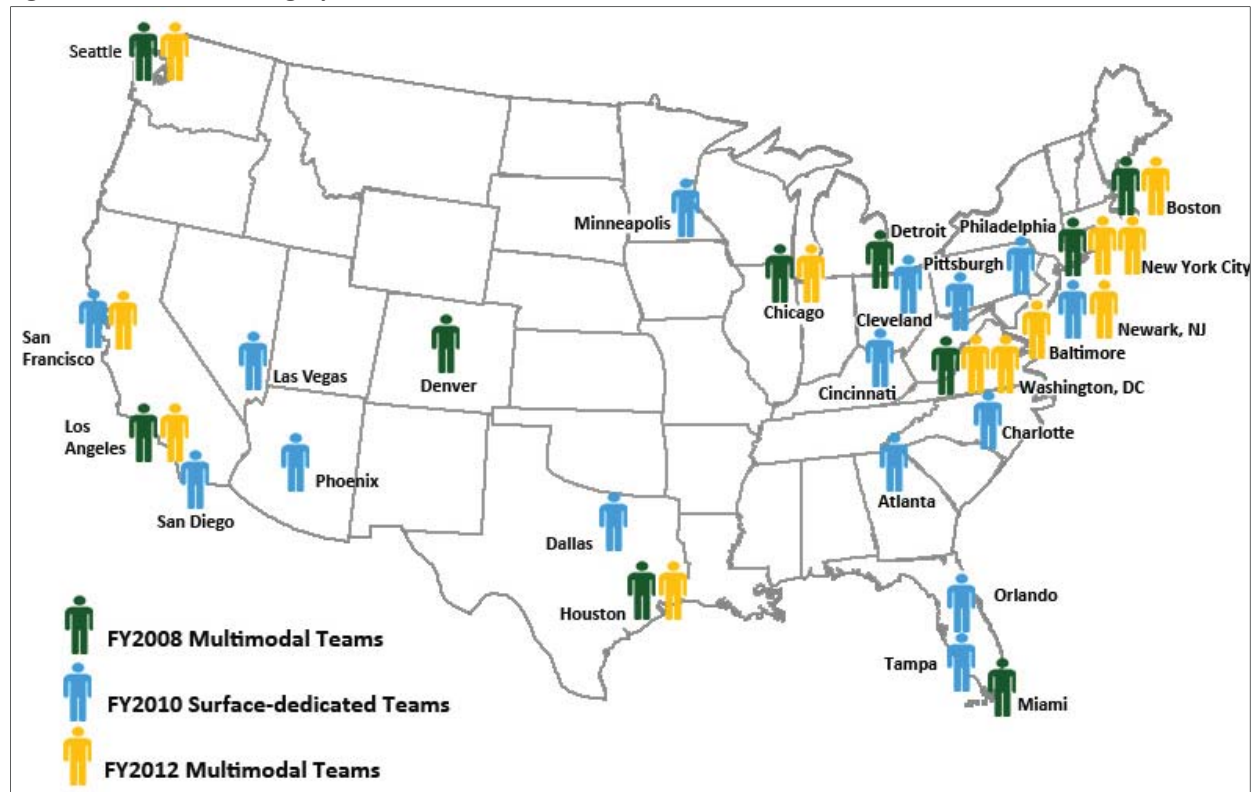
In fiscal year (FY) 2008, TSA received \$20 million to establish and operate 10 multimodal VIPR teams. These teams are authorized to perform VIPR operations in all modes of transportation and were assigned to cities where both OLE/FAMS and OSO FSD offices are located. In 2010, Congress provided \$25 million for TSA to expand the program by establishing 15 additional VIPR teams to work primarily within surface transportation. These teams were assigned to cities where the remaining OLE/FAMS field offices were located. According to TSA officials, in 2012, TSA received approximately \$12 million in lapsed funding for 12 additional multimodal VIPR teams. These teams are assigned to existing OLE/FAMS field offices with higher VIPR workloads. As of December 2011, TSA officials were determining the appropriate staffing for these additional teams, but anticipate that each will be operational by September 2012. As a result, TSA will have 37 operational VIPR teams across the Nation, as shown in figure 3.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Figure 3: VIPR Team Geographic Distribution



Source: OIG analysis.

VIPR Program Support

Within TSA, the Office of Transportation Sector Network Management (TSNM) identifies high-risk transportation infrastructure and provides this information to the VIPR Program.⁹ The VIPR Program uses this information to provide field operations with guidance for prioritizing and scheduling deployments. TSNM also engages stakeholders, and assesses and assists in mitigating vulnerabilities, coordinating security plans, conducting regulatory evaluations, and promoting risk reduction to the Nation's transportation systems.

⁹ During our fieldwork, TSA's headquarters realignment transitioned TSNM to the Office of Security Policy and Industry Engagement.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

TSA's Office of Chief Counsel provides legal services to TSA offices and personnel, and assists with developing policy and implementing TSA's authorities and responsibilities. Office of Chief Counsel field attorneys work with VIPR staff in negotiating and drafting agreements with partners and stakeholders; reviewing operational documents, plans, procedures, and policies to ensure compliance with legal authorities; providing legal advice and guidance on search-related and civil rights/civil liberties issues; and interpreting regulatory and statutory authorities.

TSA's Office of Intelligence and Analysis provides intelligence-based risk analyses to TSA offices and personnel regarding transportation threats and vulnerabilities. Situational or current intelligence is made available to VIPR team members for operations. The Office of Intelligence and Analysis routinely forwards mass transit and passenger rail alerts to the VIPR Program.

The National Explosives Detection Canine Team Program trains and certifies canines and handlers to detect explosive and chemical substances in all modes of transportation. This program provides canines for TSA's security inspection functions and also provides canines to local and transportation law enforcement agencies. As of December 2011, 900 TSA-authorized canine teams were deployed across the country to support transportation security. Some canine teams participating in VIPR operations are provided by stakeholders upon request by OLE/FAMS field offices, and other teams are employed at airports under an FSD's operational control.

The Domestic Nuclear Detection Office (DNDO) was established to improve the Nation's capability to detect and report unauthorized attempts to import, possess, store, develop, or transport nuclear or radiological materials. To assist in carrying out its mission, DNDO partners with TSA to provide FAM-led VIPR teams with Preventative Radiological/Nuclear Detection (PRND) equipment. VIPR teams use PRND equipment to screen for radiological and nuclear materials when performing operations.

VIPR Planning and Reporting

VIPR teams submit all operational planning and reporting documents to the JCC through WebEOC. WebEOC is a web-based incident/event information



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

management system capable of managing multiple incidents and daily events, assigning and tracking missions and tasks, providing situational alerts, coordinating resources, and generating reports.

All VIPR field activity begins with an annual Deployment Operations Plan (DOP) that is submitted, reviewed, and commented on, or concurred to by the JCC. A DOP includes a description of planned deployments in a transportation system and mode, addresses VIPR team composition and team member activities during deployments, deployment time and location, reason for venue selection, and how VIPR deployments will augment existing venue security. A DOP also identifies participating agency points of contact and operation-specific details such as firearms restrictions, arrest authorities, screening protocols, explosives disposal, and communications. A separate DOP is prepared for each partner and stakeholder that works with VIPR teams, and larger venues serving multiple partners and stakeholders may have a separate DOP.

As of December 2011, the DOP was transitioning to a National Deployment Operations Plan, which will describe nationally approved VIPR activities in surface transportation. With this transition, the VIPR Program also anticipates replacing WebEOC with the VIPR Information Management System, which is expected to reduce administrative requirements and support analysis more effectively.

In addition to the annual DOP, when a VIPR deployment is scheduled, an Operations Tracking Report is submitted to the JCC. This more specific report identifies the date, time, mode(s), and location(s) for the operations. An Activity Summary Report identifying personnel assigned to the deployment, as well as the proposed VIPR team and partner agency activities, is processed by the JCC and posted in WebEOC 2 to 3 days before a VIPR team is deployed. After an operation, significant changes to staffing, timing, or any significant events such as arrests, are submitted to the JCC in an After-Action Report. This report provides VIPR Program management with an opportunity to analyze field activities, lessons learned, and best practices.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Partners, Stakeholders, and Venues

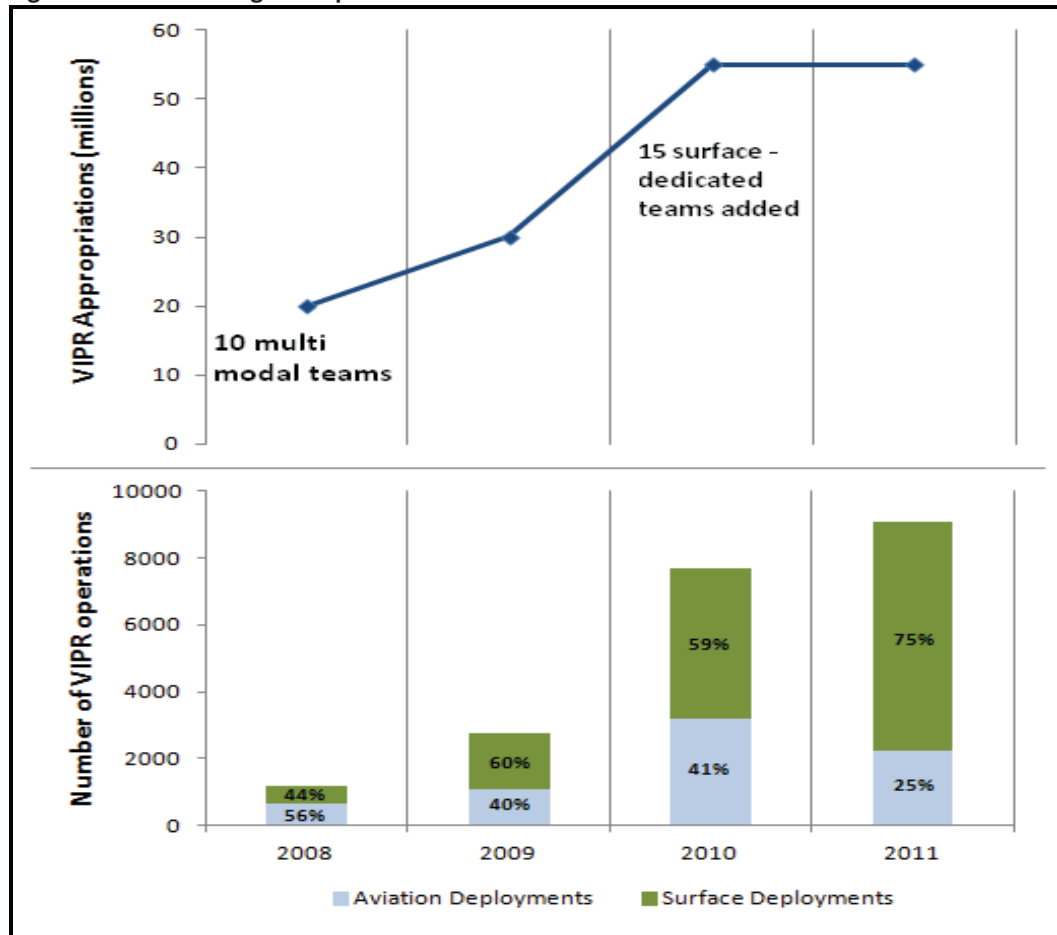
The Nation's public transportation systems are built, owned, maintained, operated, and funded through Federal, State, and local government and private sector partnerships. VIPR operations are conducted with various partners, stakeholders, and venues. VIPR teams deploy to commuter, light, and heavy rail and to bus, airport, highway, bridge, ferry, and pipeline systems. As figure 4 shows, staffing and funding enhancements have increased VIPR operations in both aviation and surface venues. As of December 2011, VIPR teams were conducting 75 percent of operations in surface transportation and 25 percent in aviation.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Figure 4: VIPR Funding and Operations



Source: OIG analysis.

We assessed TSA efforts to deploy VIPR teams to augment security in rail and mass transit systems as part of our *Fiscal Year 2011 Annual Performance Plan*. Specifically, we reviewed whether TSA has a methodology to select VIPR deployments; geographic location and critical infrastructure affect the conduct of VIPR team operations; and VIPR teams are efficient and effective in augmenting local, State, and Federal efforts to enhance security on rail and mass transit systems. This review is a follow-up to our report *TSA's Administration and Coordination of Mass Transit Security Programs* (OIG-08-66), issued in June 2008.



Results of Review

The VIPR Program has improved its ability to establish effective partner and stakeholder relationships. However, organizational, programmatic, and operational challenges remain. For example, the VIPR Program's placement within TSA hinders its ability to ensure coordinated field activities. Guidance is needed to clarify law enforcement activities, team member roles and responsibilities, and equipment use during VIPR operations. Additionally, the VIPR deployment methodology needs refinement, and resources are not allocated proportionately to team workloads across the Nation. Teams do not receive standardized training, and the length of VIPR team member assignments affects program effectiveness. TSA can enhance program efficiency and effectiveness by addressing these challenges.

VIPR Program Improvements Have Enhanced Its Effectiveness

TSA continues to improve the VIPR Program through enhanced partner and stakeholder outreach and interaction, and the integration of OSO and OLE/FAMS assets on VIPR teams. However, greater public awareness and outreach are needed to enhance knowledge and acceptance of the program. In addition, capturing program data more accurately would reflect the VIPR Program's value to DHS, partners, and stakeholders better.

Enhanced Interaction Has Improved Perception and Engagement

Transit agencies are not required to participate in VIPR operations. When partners and stakeholders are not receptive to participating in and interacting with the program, teams are unable to fulfill their mission to enhance the security of the Nation's transportation infrastructure. As a result, developing a working and mutually beneficial relationship with partners and stakeholders is essential.

Several partners and stakeholders said that initial VIPR Program exposure was unsatisfactory. Teams had not introduced and communicated the program's intent or established credibility or the program's usefulness to transit agencies. For example, one mass transit stakeholder described initial exposure to VIPR operations as uniformed teams appearing unannounced at train stations, which



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

created confusion as to who the teams were and what was their intended purpose.

After initial deployments, partners and stakeholders describe VIPR Program engagement as regrouping and communicating better through more meaningful outreach to police departments, transit agencies, governing boards, and other entities. A stakeholder described the new outreach as thoughtfully done, as stakeholders are now engaged and included in discussions of potential operations within their systems. As a result, most partners and stakeholders said they value the program as a force multiplier and an extension of their security assets, and describe the teams as professional, willing to work and take advice, flexible, and responsive to partner and stakeholder needs. However, some partners and stakeholders remain hesitant to reengage with the program after their initial experiences.

Partners and stakeholders said VIPR Program scheduling, planning, and the site selection process are continuously improving, especially when team members remain in assignments for extended periods. On some teams, one member is assigned to coordinate with specific transit agencies and another conducts scheduling, which provides agencies with a direct connection to the VIPR Program.

More Effective Public Engagement Is Necessary

Although the VIPR Program has improved its engagement with partners and stakeholders, it can further enhance knowledge and acceptance of the program through public outreach efforts. More effective VIPR Program promotion would raise awareness of TSA's mission in all modes of transportation and convey TSA executive support for the program.

In July 2010, DHS announced the If You See Something, Say Something™ campaign to encourage the public to report suspicious activity.¹⁰ The campaign's purpose is to raise public situational awareness, supporting DHS Secretary Napolitano's statement that "homeland security begins with hometown security." In February 2011, Secretary Napolitano mentioned the

¹⁰ This slogan is trademarked by New York's Metropolitan Transportation Authority.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

VIPR Program when discussing If You See Something, Say Something™ and the National Suspicious Activity Reporting Initiative, as an extra measure to help deter terrorist activity in the public transit environment.¹¹

As a result of the If You See Something, Say Something™ campaign, DHS has developed partnerships with transit agencies and State and local law enforcement agencies, and the campaign has been promoted at large sporting events, such as the 2012 Super Bowl. Partners and stakeholders mentioned promoting the campaign by handing out If You See Something, Say Something™ information to passengers during VIPR operations. Increasing public awareness and participation in identifying suspicious behavior enables the public to serve as a force multiplier to law enforcement officers.

Introducing a similar campaign to promote the VIPR Program could enhance its mission to “instill confidence in the traveling public” while being visible during operations.¹² In addition to assisting with stakeholder relations, public promotion could further the traveling public’s awareness. Seeing VIPR teams, particularly FAMs in tactical gear, can cause some passengers to express emotions of anxiety and fear or security. Without prior knowledge about the team or its purpose, stakeholders initially received negative reactions and opinions from passengers encountering VIPR teams. Once passengers were more knowledgeable about the program and its intent, they typically viewed the teams favorably. For example, passengers have approached VIPR team members with questions regarding whether there was an immediate threat or security risk. Once the team explained its purpose of increasing security at transportation venues, passengers often responded positively to the team.

¹¹ The Nationwide Suspicious Activity Reporting Initiative is an effort to involve State, local, and Federal partners in identifying, reporting, and analyzing suspicious activity reports.

¹² VIPR National DOP – Surface Section 1.1.



The VIPR Program May Not Measure Its Value Accurately

The VIPR Program uses the following criteria to measure and track its performance:

- Number of VIPR team operations, including the number of operations in aviation and surface
- Percentage of National Special Security Events and Special Event Assessment Rating Events at which VIPR teams are deployed¹³
- Completion of VIPR operations at sites that TSA has determined to be high risk based on risk assessments, analyses, and studies conducted in each mode of transportation
- Percentage of repeat VIPR deployments with primary stakeholders, capturing continued working relationships with primary transportation stakeholders

Although these criteria can measure the quantity and quality of services provided to transit partners and stakeholders, the usefulness of the measurement depends on data integrity. Field offices count and report VIPR operations differently depending on the number of VIPR teams, stakeholders, and venues. For example, when one team works with a stakeholder at multiple venues, some field offices report daily activities as one VIPR operation because the team worked with only one stakeholder. However, another field office may report the same activities as multiple VIPR operations, since visibility was provided at multiple venues.

Although the number of venues and stakeholders affect how VIPR teams count, report, and record operations, the following factors also influence program data consistency and accuracy:

- How VIPR teams divide during an operation;
- Whether an operation incorporates both stationary screening and a roving uniformed presence; and

¹³ National Special Security Events are events DHS identifies as nationally or internationally significant based on potential risk for a terrorist attack. Special Event Assessment Rating Events do not have the same level of risk as National Special Security Events.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

- The number of planning documents submitted for each deployment.

VIPR Program officials said that JCC analysts ensure that WebEOC data are reconciled when submitted. However, without defining how to count VIPR operations, field personnel will continue to report and count VIPR operations differently, which creates unnecessary work at the JCC. In addition, without a working definition for a VIPR operation, JCC analysts may not be able to count operations consistently and accurately. Defined criteria for counting and reporting VIPR operations and a method for confirming operation documentation will ensure that VIPR Program performance metrics reflect each VIPR operation accurately.

Recommendations

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #1: Develop and implement a public awareness initiative to convey the VIPR Program's intent.

Recommendation #2: Clarify the definitions of VIPR operations and provide guidance to headquarters and the field about how to complete operational documentation to correctly report operations.

Recommendation #3: Establish and implement a data reporting procedure that ensures information submitted to the Joint Coordination Center is updated and reflects each VIPR operation accurately.

Management Comments and OIG Analysis

We evaluated TSA's written comments and have made changes to the report where we deemed appropriate. A summary of TSA's written response to the report recommendations and our analysis of the response follows each recommendation. A copy of TSA's response, in its entirety, is included as appendix C.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

In addition, we received technical comments from TSA and incorporated these comments into the report where appropriate. TSA concurred with 12 recommendations and did not concur with 4 recommendations in the report. We appreciate TSA's comments and contributions.

Management Response to Recommendation #1: TSA officials concurred with Recommendation 1. In its response, TSA said that the VIPR Program is working with TSA's Office of Strategic Communications and Public Affairs to develop a public affairs guidance document and define TSA's participation in media exchanges. The Office of Strategic Communications and Public Affairs will also work with the Office of Security Policy and Industry Engagement to create a proactive initiative with stakeholders as a second part of the public awareness strategy. The third part of the strategy will include outreach and education initiatives with external stakeholders to ensure that personnel participating in VIPR operations have accurate and timely messaging.

OIG Analysis: We consider TSA's actions responsive to Recommendation 1, which is resolved and open. TSA describes planned public outreach efforts with stakeholders and partners. However, the intent of this recommendation is also to ensure uniform messaging to the public about the VIPR Program and team presence in various transportation venues. This recommendation will remain open pending our receipt of documentation that TSA has developed VIPR Program plans and disseminated materials for general public engagement and awareness.

Management Response to Recommendation #2: TSA officials concurred with Recommendation 2. In its response, TSA said that JCC personnel are responsible for consistently and accurately handling operations data. TSA agreed that an understood definition for what constitutes a VIPR operation among all field personnel could enhance accounting for operations data.

Further, for metric purposes the VIPR Program considers an operation to be "the deployment of VIPR personnel (TSA and non-TSA) at a venue in a specific mode for a defined period of time." Recognizing variations in VIPR operations at the local level, the program does not mandate a minimum or maximum requirement for personnel or duration. Field personnel, working with stakeholders, determine whether a venue that contains multiple transportation modes and



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

includes other transit stations is considered a single VIPR activity, or multiple VIPR activities requiring multiple Activity Summary Reports.

The JCC recently updated and communicated guidance to VIPR field personnel about consistently and accurately completing Activity Summary Reports. In addition, the JCC will communicate the VIPR operation definition to field personnel.

OIG Analysis: We consider TSA's actions responsive to Recommendation 2, which is resolved and open. This recommendation will remain open pending our receipt of documentation, from headquarters to field offices, that clearly defines a VIPR operation and guidance to complete VIPR operation documentation accurately.

Management Response to Recommendation #3: TSA officials concurred with Recommendation 3. In its response, TSA said the VIPR Information Management System design and development team coded the system to ensure consistent field reporting and VIPR program data analysis. The VIPR Information Management System is currently scheduled to be implemented in the first quarter of FY 2013.

OIG Analysis: We consider TSA's actions responsive to Recommendation 3, which is resolved and open. This recommendation will remain open pending our receipt of documentation that ensures consistent field reporting and information submitted to the JCC is updated and reflects VIPR operations accurately.

Centralized Operational Guidance Is Needed To Clarify Law Enforcement Activities on VIPR Operations

FAMs have specific authorities as Federal law enforcement officers in all modes of transportation. Although VIPR teams are visible deterrents to terrorism, in many cases FAMs are valued as force multipliers by local law enforcement agencies in mass transit environments. However, because of differences between the aviation and mass transit operating environments, implied and actual operating guidance in each environment, and perceived need for more guidance and support from management, FAMs on VIPR teams expressed having a higher confidence level working in aviation than in mass transit. These issues



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

reduce VIPR Program effectiveness in certain locations. Stronger centralized guidance specifying the extent to which FAMs can support local law enforcement, which reflects the realities of VIPR operations in mass transit environments, is needed.

FAMs Have Federal Law Enforcement Authority in All Transportation Modes, But Authorities Vary by State

According to the *Aviation and Transportation Security Act*, TSA is responsible for security in all modes of transportation.¹⁴ As TSA's law enforcement officers, to the extent that they are acting in support of transportation security, FAMs are authorized to carry a firearm and make a warrantless arrest for any Federal offense committed in their presence, or for any Federal felony if the FAM has probable cause to believe that the person to be arrested has committed or is committing the felony. In addition, FAMs may seek and execute Federal warrants for arrest or seizure of evidence based on probable cause that a violation has been committed. The *Aviation and Transportation Security Act* also states that TSA must provide guidance to FAMs in exercising these authorities, in consultation with the U.S. Attorney General.¹⁵

Furthermore, as Federal law enforcement officers, FAMS are considered to be within the scope of their employment when taking reasonable action, including the use of force, to protect someone in their presence from a crime of violence; help someone suffering from or being threatened with bodily harm; or prevent the escape of someone whom FAMS believes committed a crime of violence in the FAMS' presence.¹⁶

FAMs routinely exercise their law enforcement authority in the aviation and mass transit environments, as well as other transportation modes when conducting VIPR operations. As a policy matter, VIPR teams focus on transportation security matters; however, as a matter of law, under certain circumstances, FAMs are permitted to engage when they encounter criminal conduct. Specifically, FAMs may make a warrantless arrest for any Federal

¹⁴ 49 USC 114(d).

¹⁵ 49 USC 114(p).

¹⁶ This authority derives from the so-called "Federal Good Samaritan Law." 28 USC 2671 note.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

felony committed in their presence, or for any Federal felony if the FAM has probable cause.¹⁷

Federal Peace Officer Status Varies by State

Although FAMs have authority to act on Federal offenses, their ability to support local partners and stakeholders fully in a law enforcement capacity depends on whether FAMs have “peace officer” status in a State. Each State defines peace officer status differently, but the status generally refers to the authority to perform State and local law enforcement functions in a specific jurisdiction.

Federal law enforcement officers have peace officer status in some States. For example, in Colorado, Federal law enforcement officers authorized to use deadly force in performing their duties are granted peace officer status.¹⁸ In Illinois, Federal employees authorized by statute to arrest individuals for Federal crimes are considered peace officers. Among other powers, FAMs can assist another Illinois peace officer in an arrest or act upon an offense under Illinois law being committed in their presence.¹⁹

In other States, Federal law enforcement officers from specific agencies are granted peace officer status. This definition may or may not include all DHS agencies, and Federal law enforcement officers’ peace officer powers may be limited to specific actions. For example, in New York, FAMs may use physical and deadly force in making an arrest or to prevent escape, and may seize weapons.²⁰ However, even though they can perform warrantless arrests, they cannot do so solely based on probable cause that the individual has committed a felony outside of the officer’s presence, as they can under their Federal authorities.²¹ In other States, such as California, Massachusetts, and Ohio, FAMs do not have peace officer status and may not arrest or remove someone from the transit system for committing a non-Federal crime.

¹⁷ Federal Air Marshal Service Office of Training and Workforce Programs: VIPR Legal Lesson Plan, October 2009.

¹⁸ Colorado Revised Statutes §16-3-110(b) (2012): Peace officers – duties.

¹⁹ 720 ILCS 5/2-13 (2012).

²⁰ N.Y. C.P.L. Law §2.20 (2012): Powers of peace officers.

²¹ N.Y. C.P.L. Law §2.20 and §140.25 (2012): Arrest without a warrant; by peace officer.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Field Counsel and Local Law Enforcement Provide Some Operational Guidance

As each operating area presents unique challenges, the Office of Chief Counsel at TSA headquarters as well as field counsel, review DOPs to ensure that teams are operating within their powers and local legal constraints, and that VIPR teams are supporting the State or city's role, authorities, and responsibilities.

Field counsel may provide opinions before operations or provide clarification when headquarters issues new guidance. Field counsel may also visit major deployment locations and observe a VIPR operation to provide guidance on potential legal issues. In addition, field counsel described talking to stakeholders involved in the VIPR operations to explain FAM authorities, and to explain that working with the VIPR team does not provide FAMs any special law enforcement powers.

Regardless of FAM authorities, partners and stakeholders provide additional information regarding the activities they are comfortable with VIPR teams performing in their systems and the legal training they consider important for a successful partnership. One stakeholder who conducts vehicle searches during VIPR operations described concerns regarding evidence recovered during searches, which may be inadmissible as evidence in the State penal system when discovered by a FAM. As a result, this stakeholder considered it imperative that VIPR teams understand State and Federal search and seizure laws. Another stakeholder said that his agency would not allow VIPR teams to patrol trains in motion. Therefore, when conducting a multi-station operation with this stakeholder, the VIPR team travels between stations by car while the stakeholder's law enforcement team patrols trains in motion.

Partners, Stakeholders, and the Public Expect Law Enforcement Support From FAMs

FAMs are law enforcement officers and partners, stakeholders, and the public expect that they will know how to respond, and will do so when faced with potential criminal activity. Teams deploy in mass transit environments where encountering criminal activity is common, and stakeholders expressed that VIPR teams are considered an augment and support to their security teams and a force multiplier. In 2007, TSA and representatives of the Transit Policing and



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Security Peer Advisory Group created mutually agreed-upon operating guidelines for VIPR teams in mass transit and passenger rail. According to these guidelines, FAMs should defer to the transit agency or local jurisdiction's police force, but are expected "to act as necessary in the interest of public safety or other exigency requiring prompt intervention."²²

Field counsel described FAMs as being in a delicate situation as law enforcement officers who are perceived as force multipliers, but who may not be able to intervene depending on State and local laws, as well as direction from TSA leadership. For example, a FAM who does not have peace officer status cannot legally intervene to remove publicly intoxicated individuals from a transit venue, even though the individuals may be a threat to other passengers or a danger to themselves, unless they committed an offense against the United States in the FAM's presence, or the FAM has probable cause to believe that a felony is or has been committed. Even where FAMs have peace officer status, they are encouraged to not get involved in State or local offenses, and to refer offenders to local law enforcement. Should an incident occur, the public would perceive the FAMs as law enforcement officers who did not act to prevent or mitigate the incident.

Headquarters program officials stressed that the VIPR Program is about counterterrorism, not about criminal behavior, and that VIPR FAMs are encouraged to focus on the counterterrorism mission and let partners and stakeholders focus on criminal aspects. However, a FAM VIPR team member expressed concern that the team already defers to local law enforcement for many incidents. When called upon to assist a stakeholder with criminal incidents, if FAMs continually cannot provide assistance, the stakeholder may no longer consider FAMs a law enforcement asset.

FAMs Express Discomfort With Authorities in the Mass Transit Operating Environments

Although FAM authorities as TSA law enforcement officers in aviation as well as mass transit stem from the same statutes, FAMs expressed having a greater

²² TSA and the Transit Policing and Security Peer Advisory Group, *Effective Employment of Visible Intermodal Prevention and Response (VIPR) Teams in Mass Transit and Passenger Rail*, October 30, 2007.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

comfort level and understanding of their authorities in aviation. This can be attributed to the differences between the aviation and mass transit operating environments; the differences in implied and actual guidance to operate in the aviation and mass transit modes; and conflicts between guidance and VIPR operational realities.

Aviation and Mass Transit Are Different Operating Environments

The authority within the contained environment of an aircraft is clear. The Pilot in Command is in charge, and FAMs on board work with the flight crew to ensure the safety of the aircraft. When there are other law enforcement officers on board, they defer to FAM law enforcement authority and support as needed. In addition, although an airport is not as contained as an aircraft, the majority of individuals enter airports for specific purposes and exhibit predictable behaviors. As a result, it may be easier to spot inconsistencies in behavior that warrant further scrutiny. Also, passengers entering an airport terminal to travel must submit to physical screening to access aircraft. When called upon by the local law enforcement or a security team responsible for airport security, FAMs would be perceived as acting within their authority to protect aviation security.

By contrast, mass transit systems are expansive and porous, with stations that have multiple entrances and exits. Some work on the honor system and do not have turnstiles or any other fare collection chokepoint. The public enters these venues for a variety of purposes, including travel. Individuals entering mass transit venues are not screened, and the layout of many mass transit venues, as well as their passenger volume, makes physical screening a challenge. In addition, depending on the State and stakeholders, FAMs may or may not have the authority or permission to take certain law enforcement actions within mass transit venues.

FAM Training and Law Enforcement Background Are Insufficient Guidance for FAMs in the Mass Transit Environment

OLE/FAMS headquarters officials said that in deciding whether to intervene and exercise their law enforcement authorities, FAMs can rely on their experience as seasoned law enforcement officers. However, not all VIPR FAMs have a traditional law enforcement background, and many come from higher education



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

or military backgrounds. Many FAMs seek VIPR experience because of the opportunity to gain traditional law enforcement experience and exposure. Field leadership suggested that the OLE/FAMS officials assume that FAMs are armed law enforcement and will know how to respond to a mass transit situation; however, field officials said, the real issues are not only whether FAMs know how to respond outside of aviation, but whether they are comfortable doing so.

All FAM academy candidates receive extensive training in preparation for their mission as TSA law enforcement officers. In addition to their academy training, FAMs are required to complete 160 training hours per year. OLE/FAMS officials said that this training is considered guidance on how FAMs will exercise their law enforcement authorities in the aviation and mass transit environments. However, even though some training materials are applicable to both flying and VIPR missions, they may not be sufficient to afford FAMs the skills and information to perform successfully in the mass transit environment.

Some FAM training was created specifically for the VIPR mission, such as VIPR Legal, which covers FAMs' broad authorities as law enforcement in transportation modes, including the mass transit environment. Some FAMs have expressed interest in training that would explore the nuances of peace officer status and specific law enforcement authorities. However, TSA headquarters officials said that it is impossible to create training that would cover all the specific operating environments within mass transit. As a result, field offices are expected to develop their own understanding of safety and procedural issues in their venues.

Delegating this guidance to the field creates a perception that possible blame for missteps will fall on field leadership, causing some offices to deploy VIPR teams less aggressively than others. Some field leadership deploy their VIPR teams in mass transit venues where there are low crime rates and FAMs are less likely to make decisions about exercising their law enforcement authorities. Field leadership may deploy teams more often in aviation environments, where they perceive FAM authorities as better defined. In addition, some senior FAMs are hesitant to join VIPR teams because they consider guidance limited, and are unconvinced of headquarters support regarding law enforcement activities.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

The majority of OLE/FAMS training, such as Basic Handcuffing and Arrest Procedures, is geared toward the aviation environment and assumes that a FAM has arrest authority and will use it. Other training addresses Interview Techniques, which contain elements useful to VIPR FAMs when they have the authority to interview mass transit passengers they deem suspicious. However, outside the aviation environment, FAMs are unclear whether they have the authority to detain a passenger for interview based on behavior. In addition, should a passenger refuse an interview, FAMs are unclear how they should respond.

Guidance Does Not Reflect VIPR Program Operational Realities

The National Deployment Operations Plan for Surface describes FAMs as “trained to operate overtly and covertly within a public environment to investigate, detect, and respond to criminal behavior indicators.” In August 2010, TSA issued an operations directive describing VIPR Program deployments as meant to visibly deter potential criminal and/or terrorist planning and activity.²³ The most current Concept of Operations, updated in January 2008, included “conducting investigatory detentions based on reasonable suspicion” and “making arrests without warrants” in the FAMs’ role during VIPR operations.

Although FAMs are considered law enforcement by the public and several partners and stakeholders, and in many locations have peace officer status and may respond to criminal situations, program leadership has recently discouraged FAMs from exercising this authority. In addition, program leadership reminds FAMs that the VIPR mission is consistent with TSA’s over-arching mission, which is counterterrorism and transportation security. For example, in March 2011, TSA leadership released a memorandum to FSDs and SACs, which instructs that all deployments be “focused on prevention, deterrence and detection of terrorism-related activities, not based on local anti-crime initiatives.” In addition, a draft update to the August 2010 operations directive removes language about deployments deterring and disrupting criminal planning and activities, and adds that “all VIPR operations must have a nexus to transportation

²³ OD-400-50-1-13A, “VIPR Planning Guidance for Federal Security Directors and Office of Law Enforcement/Federal Air Marshal Service Special Agents in Charge,” August 6, 2010.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

security” and that “operations must be designed to deter, detect, and prevent acts of terrorism.”

When potential criminal situations occur, VIPR Program leadership encourages FAMs to notify local law enforcement, which implies that FAMs are always with or in close proximity to local law enforcement. On some operations, local law enforcement officers or security team members accompany each VIPR group. However, other partners and stakeholders have limited personnel available to deploy with VIPR teams, and position their officers at strategic locations within a venue. In larger venues, there can be a great distance between a FAM and the closest local law enforcement officer or transit security officer. In addition, communication equipment is not always reliable or interoperable. On other operations, VIPR teams deploy with partner and stakeholder permission, but without local law enforcement or security team members.

As a result, FAMs on VIPR operations need more specific guidance on engagement protocols and legal authorities when they encounter potential criminal situations. This can be achieved by leveraging existing guidance to VIPR team needs. For example, the 2005 *Common Strategy Detailed Guidance* (Strategy) describes the roles of flight and cabin crews with respect to FAMs and other law enforcement on board an aircraft. The Strategy has Threat Levels that include passengers’ behavior and appropriate flight and cabin crew actions for each Threat Level, as shown in figure 5.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Figure 5: Behavior Threat Levels on an Aircraft

Threat Level	Examples
Level 1: Disruptive, suspicious or threatening situation or behavior	Alcohol or drug-induced disorderly behavior or verbally abusive language; non-violent threatening behavior.
Level 2: Physically abusive behavior	Physically abusive behavior towards another person or threats of such behavior [REDACTED]
Level 3: Life threatening behavior	Imminent threat of death or serious bodily injury, [REDACTED]
Level 4: Attempted or actual breach of the flight deck	[REDACTED]

Source: OIG analysis of Federal Aviation Administration and TSA, *Common Strategy Detailed Guidance*, 2005.

TSA officials said that there is no comparable document for the mass transit environment. However, some Strategy elements could be leveraged to draw parallel guidance for VIPR teams. For example, TSA could establish similar threat levels for mass transit environments and identify when a FAM may detain or interview a passenger, short of arrest. Once identified, TSA can establish engagement protocols and legal authorities for FAMs and other VIPR team members. In addition, transit agency representatives said that the industry continually develops security plans, shares best practices and training, and provides peer reviews and advice. TSA could use the transit industry as a resource when developing mass transit guidance.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendation

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #4: Develop and communicate guidance for FAM engagement protocols and legal authorities when VIPR teams encounter potential or actual criminal activity in mass transit environments.

Management Comments and OIG Analysis

Management Response to Recommendation #4: TSA officials concurred with Recommendation 4. In its response, TSA said the VIPR Program's objective is to deter and prevent terrorist activities in any mode of transportation. TSA understands that VIPR personnel may encounter criminal activity while conducting operations; however, local law enforcement partners are responsible for addressing criminal activity, while VIPR teams' focus remains on counterterrorism activities. TSA will increase communication with field personnel regarding existing guidance to enhance understanding and application of the protocols and authorities. TSA also anticipates addressing this topic in the training programs currently being developed.

OIG Analysis: We consider TSA's actions responsive to Recommendation 4, which is resolved and open. This recommendation will remain open pending our receipt of a communication plan and guidance for field personnel regarding FAM authorities during VIPR operations.

TSA Has a Methodology To Select VIPR Deployments, But Additional Enhancements Are Needed

VIPR teams deploy into transportation venues based on national program guidance and local partner and stakeholder needs and concerns. The JCC provides lists of critical infrastructure, and VIPR teams work with State and local transportation entities to schedule deployments that align with these priorities. When there is no specific intelligence regarding credible threats against the Nation's surface transportation infrastructure, teams and stakeholders use their expertise to make deployment decisions. However, there is no documented



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

methodology that can be applied at the local level, and guidance regarding deployment focus and team activities is evolving.

The Joint Coordination Center Provides Overarching Guidance Regarding VIPR Deployments

VIPR deployments are based on a combination of national and local considerations. At the national level, the JCC provides teams with guidance regarding critically important venues in their areas of responsibility. These include 40 Focus Airports, 60 High Threat Urban Areas, 20 High Threat Maritime Locations, 23 Critical Freight Locations, 8 Critical Bridges and Tunnels, the Top 100 Mass Transit Agencies, 22 Critical Pipeline Locations, and Man-Portable Air Defense System Mitigation Plan Support. Figure 6 describes these categories in more detail.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Figure 6: JCC Deployment Venue Prioritization

Criteria	Description
Focus 40 Airports	Created by TSA Leadership. Includes Category X and Category 1 airports that cumulatively handle 80-85% of commercial passengers, and where passenger loads and infrastructure create potential for directed terrorist targeting.
60 High Threat Urban Areas	Created by TSNM with other DHS components. Based on the Urban Areas Security Initiative Program's 100 most populous metropolitan areas assessed for threat, vulnerability, and consequence of terrorist attack, including Priority Toxic Inhalant areas.
20 High Threat Maritime Locations	Created by the JCC and TSNM. Includes high threat maritime systems and high traffic cruise ship ports.
23 Critical Freight Locations	Created by the JCC and TSNM with input from the freight industry. Locations are based on stakeholders' concept of the risk, vulnerability and criticality of certain locations.
8 Critical Bridges and Tunnels	Under development by JCC and TSNM, and will include highways.
Top 100 Mass Transit Agencies	Created by TSNM. Agencies ranked based on the National Transit Database passenger throughput data.
22 Critical Pipeline Locations	Created by the JCC and TSNM. Includes locations in populated areas where the teams would be most visible, and based on stakeholders' concept of the risk, vulnerability, and criticality of certain locations.
Man-portable Air Defense Systems (MANPADS) Mitigation Plan Support	Based on mitigation plans developed by TSA for U.S. commercial airports. Includes potential sites where shoulder-fired missiles can be used to attack commercial aircraft during take off or landing.

Source: OIG analysis of TSA documents.

TSA leadership can also deploy teams based on credible intelligence or heightened security environments, as well as in response to events to enhance public and infrastructure security. The FSD and SAC in each area of responsibility are expected to coordinate and schedule VIPR operations at all National Special Security Events, and Special Event Assessment Rating level I and II events.²⁴ Other events are supported when requested by State and local transportation

²⁴ The Special Event Assessment Rating incorporates a risk methodology that prioritizes special events for Federal support based on general and dignitary attendance, significance, site protection complexity, duration, location, and local capabilities. There are five levels, with the highest being I, which commands full U.S. Government support.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

entities if a team is available. TSA's Office of Intelligence and Analysis may also provide threat analyses to inform a VIPR team deployment in certain transportation systems. In addition, VIPR teams may partner with DHS components already performing uniformed operations.

VIPR program guidance encourages randomness and unpredictability in the timing of operations, including operations outside normal business hours, on holidays, and on weekends.²⁵

VIPR Teams Work With Partners and Stakeholders To Prioritize and Schedule Locally Generated Deployments

To augment partner and stakeholder security posture, VIPR teams work with State and local transportation security entities to schedule locally generated deployments that align with JCC venue deployment priorities. By developing annual and monthly operational plans and DOPs with priority venue and system entities, teams create a local strategy. For example, one stakeholder described how it works with the VIPR team to concentrate on high-density, high-traffic stations of mutual interest where multiple transit modes converge. Other stakeholders focus operations on their major stations and local venues based on vulnerability studies. Partners and stakeholders credit VIPR teams with being flexible and adapting their deployment venue priorities to accommodate local needs and concerns.

VIPR teams and stakeholders plan deployments jointly, provide mutual support, and describe various engagement levels to initiate deployments. For example, some VIPR teams are incorporated into transit stakeholder uniformed operations. This relationship requires limited formal initiation from either party, as the VIPR team is considered an extension of the stakeholder's security team. Another transit agency stakeholder said it initiates engagement with the VIPR team because it specifies that system operations are to be based on intelligence and homeland security issues. Another stakeholder said engagement was mutual, with the VIPR team offering availability on certain dates, as well as the

²⁵ OD-400-50-1-13A, "VIPR Planning Guidance for Federal Security Directors and Office of Law Enforcement/Federal Air Marshal Service Special Agents in Charge," August 6, 2010. Also, Draft OD-400-50-1-13B (unsigned).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

transit entity specifically requesting support for routine patrols and operations at high-profile events.

Some stakeholders explained that they work with the SFAM to determine which locations and timing would be most effective for operations, as well as how to implement randomness. In some cases, where the transit system has its own deterrence program, the VIPR team may augment stakeholder deployments as well as request new operations. Although teams may work with each stakeholder four or five times per month, the randomness creates an appearance of greater coverage.

Most teams engage stakeholders and can deploy to priority venues and systems. However, factors such as team availability and partner and stakeholder willingness to support the VIPR Program affect deployment to certain venues. For example, some VIPR teams said that even though they have a large geographic area of responsibility, team size requires that they focus operations on high-consequence infrastructure in urban centers, and engage other local transportation entities infrequently. One stakeholder described the program favorably, but implied a limited engagement because of its small staff size. Another transportation agency did not want the team operating on its trains because VIPR operations are unpopular with passengers.

Risk-Based Methodology Is Needed To Prioritize Deployments With Stakeholders

Some TSA officials expressed concern that VIPR operation locations and timing are not based on a risk-based methodology or credible intelligence. A draft update to the August 2010 VIPR operational directive states that “a risk-based methodology should be applied when identifying potential locations for VIPR deployment in all transportation modes” in an area of responsibility and that “modal representatives from TSNM can provide subject matter expertise to this portion of the process.”²⁶ The guidance, however, does not explain what methodology to use, which can result in the use of different methodologies for each VIPR team field location. For example, one VIPR team member said there is

²⁶ Draft OD-400-50-1-13B, “VIPR Planning Guidance for Federal Security Directors and Office of Law Enforcement/Federal Air Marshal Service Special Agents in Charge” (unsigned).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

no additional direction from the JCC on how to prioritize venues in his area of responsibility, other than the overarching JCC venue priority list. As a result, he identifies locations and venues where the team could have the most effect, but the methodology is specific to his team and not reviewed by TSA headquarters.

For most U.S. surface transportation infrastructure, there has not been specific intelligence of credible threats. Field intelligence coordinators at FAM field offices described U.S. mass transit–related intelligence as limited, but said that credible intelligence on the tactics used abroad is shared with VIPR teams for situational awareness. Even though credible threat information is limited, there are periods of heightened awareness when VIPR teams, partners, and stakeholders work to reduce risks to mass transit systems. For example, during the 10th anniversary of the September 11, 2001, attacks, VIPR teams across the Nation increased their operational frequency. Two VIPR teams almost doubled their daily operations. In another city, leading up to the anniversary the VIPR team increased daily operations to four, working with as many as four stakeholders at each operation. On September 11, 2011, this team conducted seven operations. Partners and stakeholders also engaged VIPR teams to plan operations during this period.

Some stakeholders have threat and vulnerability assessments for their transportation systems and information about suspicious activity, which they share with VIPR teams to inform operational planning. Teams also use their expertise about a system to determine the most effective locations and times for deployment. Although local-level VIPR deployment methodology is not documented, teams use a variety of methods, in concert with stakeholders, to determine appropriate transit system coverage.

VIPR Teams Need Additional Guidance on Deployments

Deployment guidance focuses more on the VIPR Program’s intent than on what constitutes an appropriate deployment. For example, the Concept of Operations describes the purpose of VIPR deployments as supplementing existing security resources and providing a deterrent presence. Deployments are meant to provide detection and response capabilities and expand the unpredictability of security measures against terrorist operations. In addition, an August 2010 TSA operations directive describes VIPR Program deployment methodology as



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

consistently exercising to deter criminal or terrorist activities and enhance TSA's ability to deploy seamlessly to transportation venues in emergencies.

In March 2011, the Assistant Administrators of OSO and OLE/FAMS issued a memorandum to all field FSDs and SACs to provide more specific guidance regarding deployments that are not considered within the scope of the VIPR Program. These types of deployments include the following:

- Fare ticket checks in mass transit venues
- Primary enforcement of Transportation Worker Identification Card status
- Deployment on local and interurban buses
- Operations focused specifically on the detection of general criminal activity
- Screening of individuals when leaving a transportation venue

The majority of field leadership said it appears that TSA headquarters is hesitant to provide specific guidance on what constitutes an appropriate VIPR operation. As a result, field management uses its discretion to implement the program, and additional operational prohibitions are instituted by TSA headquarters. For example, because of train station vandalism, a stakeholder requested a VIPR team to accompany its security team in a station late at night. Although this type of operation was initially allowed, the VIPR team was told that similar operations are prohibited. VIPR team members described being unsure of the local DOP's purpose, and preferring to use national guidance that specifies what teams may and may not do in bus and rail stations and other surface transportation venues such as highways, bridges, and tunnels. More specific guidance would ensure that VIPR teams know what constitutes an appropriate deployment and what TSA leadership envisions for the program.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendation

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #5: Provide enhanced guidance regarding risk-based deployment planning and increase access to risk assessment information that VIPR teams can use to prioritize deployments with partners and stakeholders.

Management Comments and OIG Analysis

Management Response to Recommendation #5: TSA officials concurred with Recommendation 5. In its response, TSA said that the Office of Security Policy and Industry Engagement issued a list that identifies high-risk transportation infrastructure to which field personnel could refer as basic guidance when planning VIPR operations. In addition, VIPR field personnel work with stakeholders to assess the potential consequences and vulnerabilities for terrorist actions at stakeholder venues. VIPR teams, in conjunction with stakeholders, also determine which VIPR capabilities can mitigate those vulnerabilities.

Further, the VIPR Program is working with the Office of Security Policy and Industry Engagement to communicate the use of risk-based tools, techniques, and information to support planning and scheduling of VIPR operations with stakeholders.

OIG Analysis: We consider TSA's actions responsive to Recommendation 5, which is resolved and open. This recommendation will remain open pending our receipt of guidance that documents a risk-based methodology for field offices and personnel to use when selecting venues and planning VIPR operations.

Organizational Placement Within TSA Hinders VIPR Program Effectiveness

The VIPR Program is managed by OLE/FAMS Field Operations on behalf of TSA. Program leadership includes representation from OLE/FAMS, OSO, and the Office of Security Policy and Industry Engagement. Program leadership develops administrative and operational guidance for the program in collaboration with



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

headquarters and field operations leadership. The VIPR Program directly manages the JCC and OSO and OLE/FAMS field leadership implement program activities in the field. The JCC does not have the authority to make and enforce independent executive-level decisions regarding the program's direction or to ensure coordinated VIPR Program field personnel and asset support. Ineffective coordination hinders TSA's ability to leverage operational capabilities, potentially diminishing its transportation security posture.

VIPR Management Is Not Empowered To Make Executive-Level Program Decisions

For the VIPR Program, the Assistant Administrator for OSO and the Assistant Administrator for OLE/FAMS provide joint implementation guidance to FSDs and SACs via operational memoranda and directives.

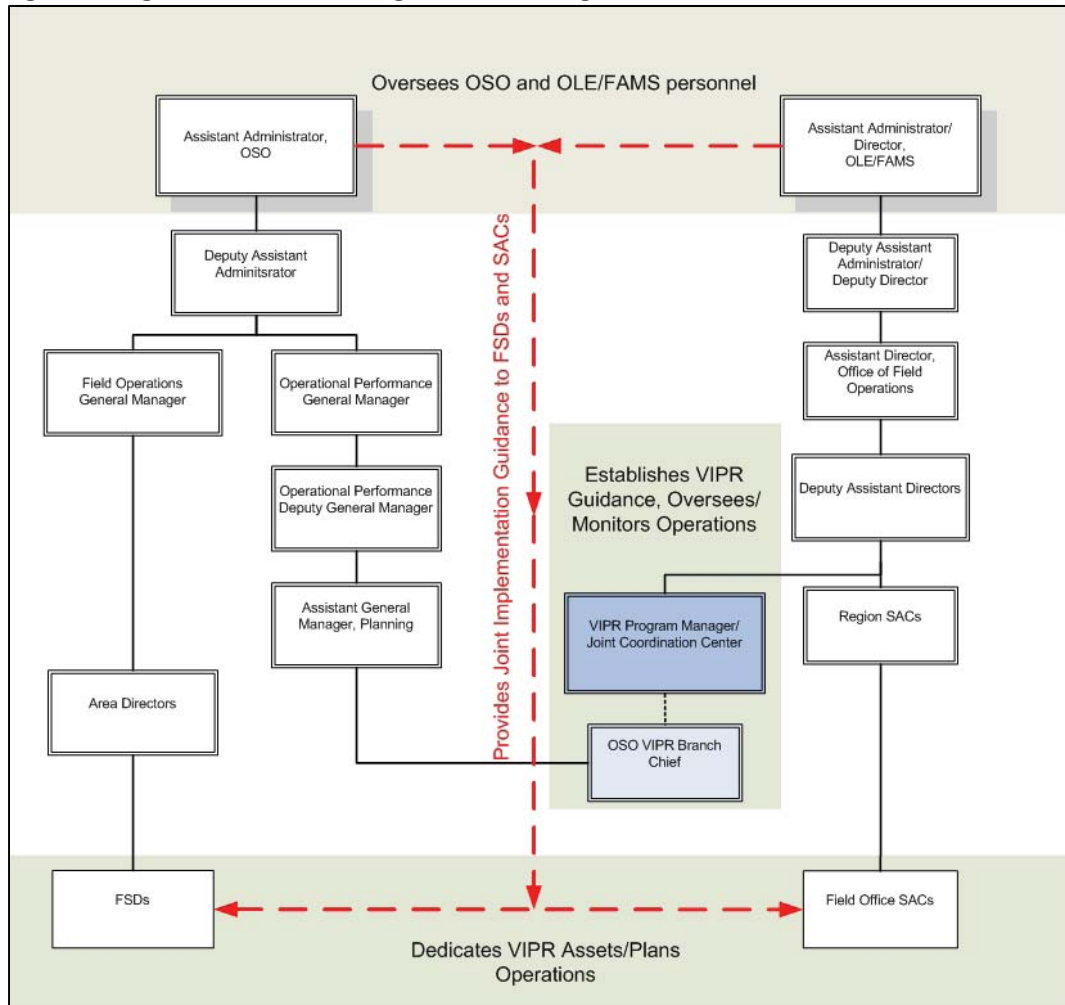
At the JCC, the VIPR Program Manager coordinates and provides policies and guidance regarding VIPR Program implementation and oversees VIPR operations. However, as figure 7 shows, the VIPR Program Manager is four levels below the Assistant Administrators who provide direct guidance to field leadership. As a result, the extent to which JCC VIPR Program management can provide and implement field guidance is not clear.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Figure 7: Organizational Positioning of the VIPR Program



Source: OIG analysis of TSA organization charts.

Although overall VIPR Program management resides with OLE/FAMS, the operational control of field personnel and assets responsible for implementation is bifurcated. For example, according to VIPR Program guidance, SACs and FSDs within the same area of responsibility decide who leads the program locally. In many locations, OSO leads screening operations, while OLE/FAMS teams lead law enforcement or “patrolling” operations.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Both program and field officials explained that because there is no central authority at TSA headquarters directing SACs and FSDs, leadership of personnel and assets performing VIPR operations is bifurcated. As a result, program effectiveness is heavily dependent on the ability of SACs and FSDs to work together and coordinate operations. In addition, no methodology is provided to the field to determine whether OSO or OLE/FAMS would be the most appropriate lead.

Coordination Between OSO and OLE/FAMS Needs Improvement

In some locations, there are effective partnerships and coordination between OSO and OLE/FAMS, and this relationship is often facilitated through the Assistant Federal Security Director-Law Enforcement (AFSD-LE). FSDs and SACs empower the VIPR SFAM and the AFSD-LEs from airports in an area of responsibility to plan operations, deploy teams, and ensure that partners and stakeholders are provided personnel and assets for all deployments. For example, in one location the SFAM and AFSD-LE meet quarterly with their FSD and SAC to discuss past deployments, current events, and other topics that may affect VIPR operations.

Another FSD described the SFAM as the point person for VIPR planning. The SFAM works with OSO personnel and assets provided by the FSD to the OLE/FAMS field office to conduct planning and coordinate resources for VIPR operations. In another example, an SFAM communicates with the AFSD-LEs in his area of responsibility at monthly planning meetings to jointly determine who will perform which types of operations and where. In some areas of responsibility, FSDs and SACs create separate VIPR operations within aviation and surface modes, and coordination is limited.

VIPR Operations in the Aviation Mode

Both VIPR Program officials and airport partners and stakeholders claim that the insider threat is one of their greatest concerns at airports. The VIPR Program encourages teams to perform operations on the secure side of an airport to mitigate the insider threat, although not all field leadership agrees that these operations are valuable.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

We observed that when an FSD is disengaged from law enforcement-led VIPR operations, or where FSDs and SACs create separate VIPR operations in aviation and surface transportation, FAM VIPR team members rarely perform operations inside an airport. Where there are multiple types of operations and limited communication between FSD and SAC offices, FAM-led VIPR teams often patrol the public side of airports. As a result, some FSDs do not understand why the VIPR team is in the airport, because TSA personnel and assets, as well as local law enforcement, are already patrolling this public environment. Some OSO and OLE/FAMS VIPR team members also consider operations on an airport's public side a waste of time because of the multiple security layers, while mass transit remains less protected.

Effective VIPR and Security Playbook Program Coordination Can Enhance TSA's Aviation Security Posture

Depending on the level of VIPR Program coordination and joint activity in an area of responsibility, TSA's efforts to increase security at airports are inconsistent. Similarly to how teams work with high-visibility security teams in mass transit systems, VIPR teams can augment TSA's other national operations, such as the Security Playbook Program.

The Security Playbook Program is risk-based and intelligence driven, and is intended to increase airport security by increasing unpredictability and providing additional layers of security in the airport's public and secure areas.²⁷ The Playbook Manager uses a randomizer program to generate security maneuvers, or plays, based on specific information. For example, the randomizer program may instruct a team to perform enhanced property and personal screening of airport personnel, including explosive trace detection, at security identification display area doors, checkpoints, and other limited-access doors. The randomizer program may also generate high-visibility plays in the public areas such as baggage claim, the terminal, and vehicle areas. Local law enforcement, FAMs, the AFSD-LE, BDOs, canine teams, TSOs, and TSIs can be involved in the operations.

²⁷ Statement of Christopher McLaughlin, Assistant Administrator, OSO and George Naccara, FSD, Logan International Airport, before the United States House of Representatives Committee on Homeland Security Subcommittee on Oversight, Investigations, and Management, September 16, 2011.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

A Playbook Manager determines plays far enough in advance to facilitate VIPR team support. When the threat level is raised enough to warrant plays in public transit airport access points, the Playbook Manager may request a VIPR team to cover these points. VIPR teams can provide high-visibility presence or additional covert support as requested. Also, when not needed in an airport, VIPR teams working in mass transit systems or other airport access points that observe potentially suspicious individuals can alert the Playbook Manager. This level of coordination, however, was described as unusual. For routine plays, FAMs involved are normally those stationed at an airport and not VIPR team FAMs.

Working with a Playbook Manager would ensure that VIPR operations in aviation, regardless of who leads the program locally, are coordinated with an FSD's staff. As a result, VIPR teams would be used more effectively, understand their role in airport security better, and enhance a Playbook Manager's capabilities.

Recommendations

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #6: Designate VIPR Program decision-making authority to one TSA headquarters office to ensure that overall field operations, program activity and engagement, and oversight are coordinated effectively.

Recommendation #7: Ensure coordination and engagement between local VIPR team leaders and the Playbook Manager, and ensure that airport law enforcement VIPR operations are integrated with Security Playbook operations.

Management Comments and OIG Analysis

Management Response to Recommendation #6: TSA officials did not concur with Recommendation 6. In its response, TSA said it has designated the Field Operations organization within OLE/FAMS to manage the VIPR program. Recognizing the challenges of a multifunctional program, the VIPR Program structure includes section chiefs from OSO and the Office of Security Policy and Industry Engagement, who are responsible for communicating with their



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

organizational leadership and performing policy development and analysis. As such, OLE/FAMS collaboratively manages the VIPR Program with other TSA leadership when program decision-making crosses organizational lines.

Having designated management responsibility to OLE/FAMS and its collaborative program management structure, TSA believes this organization best serves the interests of internal and external stakeholders and does not intend to make additional organizational change.

OIG Analysis: Although TSA did not concur, we consider TSA's actions responsive to the intent of Recommendation 6, which is resolved and open. TSA's current VIPR Program organizational structure, however, has not been effective, and operational control of field personnel and assets responsible for implementation remains bifurcated. As a result, without additional modification, the VIPR Program will continue to operate inefficiently. Assigning decision-making authority to one TSA headquarters office to ensure that overall field operations, program activity and engagement, and oversight are coordinated effectively is prudent.

Management Response to Recommendation #7: TSA officials did not concur with Recommendation 7. In its response, TSA said the recommendation's wording does not easily translate into a tangible result. VIPR operations always require advance coordination and notification to stakeholders, as well as the FSD's approval prior to deployment. Playbook's mission and authority allows for last-minute execution of security activities. FSDs are responsible for planning and executing risk mitigation strategies and activities in their airports, and for coordinating VIPR operations with the appropriate OLE/FAMS SAC. As such, the FSD and SAC are responsible for determining the best strategies to use assets, capabilities, and programs. TSA will encourage regular communication among VIPR and Playbook leadership to develop guidance regarding leveraging the capabilities of both programs to mitigate risk more effectively.

OIG Analysis: Although TSA did not concur, we consider TSA's actions responsive to Recommendation 7, which is resolved and open. Aligning and leveraging existing program capabilities can enhance the efficient use of TSA resources, while also enhancing the effectiveness of both programs. This recommendation will remain open pending our receipt of guidance that



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

leverages and coordinates Playbook and VIPR program capabilities to mitigate risk more effectively.

VIPR Team Resource Allocation Is Disproportionate

Each VIPR team is allocated [REDACTED] [REDACTED] Although VIPR asset distribution across the Nation appears equitable, the size of each area of responsibility and density of critical infrastructure vary, which can create disproportionate workloads. In addition, the VIPR Program's mass transit prioritization list from the Office of Security Policy and Industry Engagement may exacerbate the use of limited resources, and not all teams have equal access to OSO assets.

Geographic Area and Critical Infrastructure Create Disproportionate Workloads for VIPR Teams

Initially, VIPR team allocation was [REDACTED] [REDACTED] Program and field leadership said initial allocations were based on fair distribution theoretically, but in practice are disproportionate. Table 1 shows how the High Threat Urban Areas and transportation-related infrastructure prioritized by the JCC are distributed among the VIPR teams as of December 2011.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Table 1: VIPR Team Areas of Responsibility and Critical Infrastructure Priorities

Field Office	Top 100* Mass Transit Agencies	High Threat Urban Areas	Other Priority Infrastructure	Total
New York City	10	5	9	24
Los Angeles	10	3	6	19
Houston	4	6	8	18
Chicago	7	3	7	17
San Francisco	8	2	7	17
Seattle	8	2	5	15
Boston	5	4	4	13
Denver	4	3	5	12
Miami	3	3	5	11
Washington, DC	4	3	4	11
Atlanta	3	3	4	10
Cincinnati	4	2	4	10
Dallas	2	2	6	10
Newark	2	1	7	10
San Diego	4	2	4	10
Philadelphia	3	1	5	9
Baltimore	2	1	5	8
Detroit	3	1	4	8
Orlando	3	2	3	8
Cleveland	2	3	2	7
Tampa	1	1	4	6
Charlotte	1	1	3	5
Phoenix	2	2	1	5
Las Vegas	2	1	1	4
Minneapolis	1	1	2	4
Pittsburgh	1	1	0	2
Total	99	59	115	273

*The 100th mass transit agency is Amtrak, who has a presence at all locations

Source: OIG analysis of VIPR Program documents.

For example, the Los Angeles VIPR team's area of responsibility includes 10 of the top 100 mass transit agencies, 3 High Threat Urban Areas, and 6 other transportation-related priority infrastructure. Although each VIPR team is the same size, the number of transportation venues prioritized by TSA varies greatly among areas of responsibility. Some locations have multiple mass transit and



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

other priority transportation systems, requiring teams to interact with multiple partners and law enforcement stakeholders, while other locations have limited rail infrastructure. Appendix D shows the distribution of priority transportation venues and entities across each VIPR team area of responsibility.

FAM Teams Are Overextended in Some Locations

Some OLE/FAMS team members said that they were unable to cover venues in their area of responsibility adequately because of the area's size or the size of the transportation infrastructure. One team described needing at least twice as many FAMs to meet demand, and supplementing the team with flying FAMs on non-mission status.²⁸ Another team occasionally supplements its VIPR operations with flying FAMs who have previously been on the VIPR team.

Partners and stakeholders in these areas also expressed a desire to work with VIPR teams more, but recognized that some teams are overwhelmed. For example, one stakeholder wanted more FAMs available to keep a steady deployment tempo. Another stakeholder said that its large city and surrounding areas are full of important infrastructure, and the VIPR team is already overworked. This stakeholder wants the program to consider increasing VIPR FAM cadre size because it is supporting law enforcement stakeholders effectively.

OLE/FAMS and OSO Have Requested Increased Allocations for VIPR Teams

In FY 2012, the VIPR Program received an allocation increase, which includes 12 additional VIPR teams to be distributed based on risk and workload. After a VIPR Program official performed an analysis of VIPR higher-risk partners, stakeholders, and venues, two teams will be allocated to New York and Washington, DC. One team each will be allocated to Baltimore, Boston, Chicago, Houston, Los Angeles, Newark, Seattle, and San Francisco. Appendix D shows the current field office areas of operation, team distribution, and critical infrastructure.

²⁸ Non-mission status refers to scheduled workdays when FAMs report to their assigned field office to perform administrative tasks such as completing travel vouchers and submitting time and attendance.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Although the FY 2012 allocation and distribution demonstrates that program leadership is considering risk and workload in future allocations, the program should evaluate existing VIPR FAM team allocations and redistribute as needed.

Mass Transit Venue Prioritization Guidance Should Be More Focused

The JCC mass transit priority list is long, may not represent locations where deployed teams are best used, and may exacerbate use of limited resources. VIPR Program officials should prioritize mass transit entities on the list to reflect the purpose of the VIPR Program and local risk-based methodologies better.

The VIPR Program uses high-visibility patrols to deter potential terrorist planning and attacks, as well as to promote confidence in the security and safety of transportation systems. The JCC mass transit priority list includes the top 100 mass transit entities based on passenger volume. However, as table 2 shows, the top 25 entities based on passenger volume represent approximately 73 percent of the Nation's mass transit passenger travel.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Table 2: Top 25 Mass Transit Agencies by Passenger Volume

Total mass transit trips nationwide: 10,381,000,000		
Mass Transit Agency Rank	Number of trips	% of all trips
1st	3,206,871,200	30.9%
2nd	521,241,800	5.0%
3rd	481,435,600	4.6%
4th	435,858,900	4.2%
5th	367,247,600	3.5%
6th	348,314,700	3.4%
7th	281,447,600	2.7%
8th	227,130,300	2.2%
9th	156,542,400	1.5%
10th	123,697,400	1.2%
11th	119,975,800	1.2%
12th	115,834,300	1.1%
13th	114,654,600	1.1%
14th	108,551,800	1.0%
15th	103,504,600	1.0%
16th	98,205,200	0.9%
17th	97,350,600	0.9%
18th	88,510,700	0.9%
19th	88,336,000	0.9%
20th	81,553,200	0.8%
21st	80,045,900	0.8%
22nd	78,244,100	0.8%
23rd	76,343,000	0.7%
24th	71,767,200	0.7%
25th	68,677,200	0.7%
% of all mass transit trips nationwide		72.6%

Source: OIG analysis of data from *American Public Transportation Association Public Transportation Fact Book*, Washington, DC, April 2011.

The 75 additional entities on the mass transit prioritization list represent the remaining mass transit volume. Although there is value in ensuring that teams are aware of all transit systems in their area of responsibility, ordering the list by



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

passenger volume does not incorporate all aspects of risk-based mass transit security priorities.

For example, systems and passengers are not the only program priority, as these systems can be used to paralyze urban areas and destroy other critical infrastructure near mass transit venues. As a result, VIPR teams described urban centers and critical infrastructure near transit venues when prioritizing deployments in certain locations. In addition, recent testimony on mass transit security addressed stakeholders' concerns about the connection of major cities to their neighboring communities by mass transit, and the importance of ensuring that resources can be used to secure venues in these communities.²⁹

The current mass transit venue prioritization list is not focused to reflect these concerns, and could be enhanced by prioritizing mass transit entities based on high-threat urban areas and their critical infrastructure and mass transit networks. For example, New York City is a high-threat urban area, and the New York Transit Authority ranks first in the Nation in passenger volume. As table 3 shows, 5 of the top 25 transit entities on the JCC prioritization list (based on passenger volume) serve New York City.³⁰ These entities could be used in an attack or to create disruption and panic, but are ranked lower on the prioritization list because of passenger volume. As a result, it may be prudent to group these mass transit entities as one network when determining VIPR deployments.

²⁹ Commissioner Peter Boynton, Connecticut Department of Emergency Management and Homeland Security. Testimony before the U.S. Senate Homeland Security and Governmental Affairs Committee, "See Something, Say Something, Do Something: Next Steps for Securing Rail and Transit," June 22, 2011.

³⁰ This list does not include Amtrak, which is considered to be intercity rail and not mass transit.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Table 3: Transit Entities in the JCC Venue Deployment Prioritization (Top 25) That Serve New York City

Mass Transit Entity	Rank
New York City Transit Authority (MTA)	1
New Jersey Transit	7
MTA Bus Corporation	15
Long Island Railroad	17
Port Authority Trans-Hudson (PATH)	19
Metro North Railroad	20

Source: OIG analysis of JCC venue deployment prioritization.

In another example, Chicago is a high-threat urban area, and the Chicago Transit Authority ranks second in passenger volume. However, Chicago's Metra is ranked 22nd on the prioritization list, although it serves the city's major transportation centers, such as Union Station and Ogilvie Transportation Center, by transiting passengers to and from Chicago suburban areas.³¹ It may be prudent for TSA to consider the Chicago Transit Authority and Metra as one mass transit network when determining VIPR deployments.

TSA should also provide teams, using existing resources, with options and encourage teams to plan deployments that address plausible risks to priority infrastructure. For example, to meet demand, teams currently divide to cover more area and work with multiple partners and stakeholders. However, teams could be guided toward using existing resources to focus on a critical asset and deploy to chokepoints in transportation system networks. For example, in areas where mass transit systems convey passengers directly to airports, VIPR teams could split up and deploy to key locations serving transit lines entering the airport.

Program leadership said that they are working to develop tools for FSDs and SACs to use in determining risk and areas of potential vulnerabilities, and aligning capabilities and assets based on risk. As a planned milestone for FY 2012, the JCC intends to work with TSNM to complete a risk-based deployment approach using the Transportation Sector Security Risk Assessment

³¹ Metra is operated by the Northeast Illinois Regional Commuter Rail Corporation.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

methodology, and to continue to enhance its resource alignment with partner and stakeholder risk-based needs. The Transportation Sector Security Risk Assessment evaluates threat, vulnerability, and potential consequence of more than 200 terrorist attack scenarios for mass transit and passenger railroad, including factors such as threat capabilities, transit systems vulnerabilities, and the likelihood of execution.³²

In the absence of guidance, VIPR teams use existing resources to determine priorities and meet at least part of their mandate. Developing more focused and concise priority lists and providing options for how priorities could be met with current resources will better position teams to carry out TSA's vision for the VIPR Program.

OSO Personnel and Assets Dedicated to OLE/FAMS-Led VIPR Teams Need More Consistency

OSO field leadership is directed by TSA headquarters to dedicate [REDACTED] [REDACTED] to VIPR teams. However, OSO assets vary depending on FSD resource limitations and support for how the program is implemented in an area of responsibility. As there is no process to ensure that OSO personnel and assets assigned to VIPR teams are actually dedicated and participating, teams may not have full use of OSO assets.

All FSDs receive direction from TSA headquarters regarding FAM-led VIPR team resource allocation, but FSDs appear to have discretion whether or not to dedicate an OSO asset. For example, an FSD may not approve all deployments or may not consider the deployment a good use of the OSO asset. As a result, the FSD may recall the employee, direct the asset not to participate, or not assign the asset. In other cases, however, FSDs have limited OSO personnel, a situation that appears more common for the TSI and some BDO positions. At these locations, OSO team members already divide their time between supporting VIPR deployments and their regular airport duties.

³² John Pistole, Administrator, TSA. Testimony before the U.S. Senate Homeland Security and Governmental Affairs Committee, "See Something, Say Something, Do Something: Next Steps for Securing Rail and Transit," June 22, 2011.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendations

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #8: Re-distribute existing VIPR FAM position allocations among field offices according to high-threat urban areas, critical infrastructure, and mass transit networks using a risk-based methodology.

Recommendation #9: Develop a process to increase oversight regarding the availability and involvement of OSO personnel and assets to OLE/FAM-led VIPR teams.

Management Comments and OIG Analysis

Management Response to Recommendation #8: TSA officials did not concur with Recommendation 8. In its response, TSA said that the first FAM VIPR teams were assigned based on which locations had the most significant surface transportation infrastructure in all modes of transportation. After receiving additional VIPR teams in FY 2010, TSA allocated teams to areas with the second highest amount of surface transportation infrastructure. For the proposed FY 2012 FAM teams, the VIPR Program assessed the status of all existing VIPR assets and allocated new teams using a risk-based decision making process, which considered threats, vulnerabilities, and consequences. The VIPR Program is also considering applying this approach to OSO asset location funded by the FY 2012 enhancement.

The VIPR Program regularly assesses the deployment patterns of each team and compares that to the available high-risk infrastructure in each team's area of responsibility. To date, the analyses have not revealed operational problems that require redistribution of existing allocations, rather than surging assets as necessary. In addition, all VIPR FAMs are available to respond if credible intelligence is received regarding threats to a particular geographic area.

Given TSA's consideration for risk-based factors in all three VIPR FAMS team allocations, the responsiveness of VIPR FAMS personnel, and an analysis of the deployment history for all areas of responsibility, TSA does not concur that



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

significant value would be achieved from redistributing the VIPR FAMS position allocations at this time. TSA will continue to monitor deployment patterns and update risk information to determine whether realignments should be pursued in the future.

OIG Analysis: Although TSA did not concur, we consider TSA's actions responsive to Recommendation 8, which is resolved and open. We will close this recommendation upon receipt of documentation that explains the risk-based methodology considered when assigning VIPR FAM assets to field offices.

Management Response to Recommendation #9: TSA officials concurred with Recommendation 9. In its response, TSA said that approximately 60 percent of VIPR operations include both OSO and OLE/FAMS personnel. Field guidance requires the FSD and FAM SAC to designate operational team leaders and ensure that necessary personnel and capabilities are available for each operation. TSA said it would assess the staffing process for any TSA resource on VIPR operations and update the guidance as necessary. In addition, OSO will develop a process to ensure that affected FSDs are in compliance with the directive to assign [REDACTED] to each VIPR team.

OIG Analysis: We consider TSA's action responsive to Recommendation 9, which is resolved and open. This recommendation will remain open pending our receipt of documentation of a process that ensures that OSO personnel are available to deploy with VIPR teams and in compliance.

Length of VIPR Team Member Assignments Hinders Program Effectiveness

The OSO and OLE/FAMS offices we visited have processes to select VIPR team members, but the methods used to make assignments differ. OLE/FAMS has extended the length of VIPR assignments. However, partners, stakeholders, and TSA officials said that rotations and team assignments should be further extended to allow time for training and to maintain effective stakeholder and team member relationships.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

VIPR Team Member Selection and Length of Assignment Differ by Field Location

OSO and OLE/FAMS have different processes for selecting VIPR team members. The OSO selection process includes asking staff to volunteer, using an alphabetical list of eligible staff, and having management direct individuals. When deciding who is eligible to participate, management considers the employee's experience, length of time in position, and any disciplinary or corrective actions against the employee. OLE/FAMS uses a job announcement and application process, which could include an interview. After selecting team members, OSO and OLE/FAMS management assign staff to VIPR teams for varying periods. OLE/FAMS has guidance defining VIPR team assignments, but OSO does not. FSDs use their discretion to make assignments.

In April 2011, OLE/FAMS extended VIPR assignments from 6 months to a maximum of 1 year at the SAC's discretion. FAMS field offices implement this extension differently. For example, one field office assigns FAMS to two 6-month terms, 1 year total, with 6 months of flying duties between VIPR team deployments. Another office keeps the team leader for only a year and rotates other members every 6 to 8 months. FSD staff may assign OSO personnel to a single operation or to the VIPR team for a set time. Even though staff could be assigned on an operation-by-operation basis, OSO rotational assignments typically ranged from 60 to 90 days.

Team Training and Rotations Should Be Coordinated More Effectively

Some team members must complete required TSA and stakeholder-specific training to participate on VIPR operations. However, frequent rotations create gaps in VIPR team capabilities, and each team must train new members continuously, which can result in inefficiencies. For example, one stakeholder said that time and money spent on training and equipment is wasted because of the rotation length, as newer team members have limited abilities to contribute immediately.

In addition, BDOs working at airports are trained to establish a baseline for typical behaviors that passengers exhibit in the aviation environment. When participating on VIPR operations in mass transit venues, BDOs must establish a



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

passenger baseline for this environment. The frequent rotations require BDOs to reacclimate between these environments. Also, required training for specialized capabilities, such as PRND equipment for FAM-led VIPR teams, is offered infrequently. As a result, TSA officials said that some teams have gone for extended periods without PRND capability because certified FAMs rotated off teams and newly assigned FAMs have not completed the required training.

To maintain team capabilities and increase VIPR assignment efficiency, one field office trains its FAMs on rail safety and PRND equipment before they participate on the team. All field offices we visited stagger FAM rotations, which allows experienced team members to provide new VIPR FAMs with on-the-job training and ensure continuity of operations and capabilities.

Some FAM officials compare VIPR assignments with other ground-based assignments, such as serving as a member of the Federal Bureau of Investigation's Joint Terrorism Task Force. These officials said that VIPR assignment length should be comparable to other ground-based assignments, which can range from 3 to 5 years. In addition, an OSO official said that short rotation periods give the impression that TSA does not fully support the VIPR Program. To support the program more effectively and improve its efficiency, TSA should mirror other ground-based assignments by lengthening staff rotations on VIPR teams.

Frequent VIPR Team Member Rotations Hinder Effective Stakeholder Relationships

Establishing and maintaining effective relationships is integral to the VIPR Program's success. In an October 2007 document titled "Effective Employment of Visible Intermodal Prevention and Response (VIPR) Teams in Mass Transit and Passenger Rail," TSA, partners, and stakeholders recognized that VIPR team member consistency enhances joint security operations and their deterrent effect. The document also states that "coordination builds the trust and mutual understanding of capabilities, operating environment and circumstances, and security augmentation needs that are essential elements of effective joint security enhancement activities."



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

FAMs rotate off VIPR teams after developing relationships with partners and stakeholders. As a result, these entities have to re-establish relationships with new FAMs. As building effective relationships takes time, some partners and stakeholders rely on former VIPR team members rather than creating relationships with new members. Most VIPR team members, partners, and stakeholders interviewed want assignments lengthened to maintain effective relationships.

Recommendation

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #10: Extend OLE/FAMS and OSO VIPR assignments for more than 1 year.

Management Comments and OIG Analysis

Management Response to Recommendation #10: TSA officials did not concur with Recommendation 10. In its response, TSA said that it acknowledges the benefits of having VIPR personnel in place for the longest periods possible to establish, maintain, and enhance stakeholder relationships and deployment capabilities. The VIPR Program has addressed this concern by having 18-month to 3-year assignment durations for SFAMs. In addition, VIPR team rotations are staggered to reduce the effect on stakeholder relationships.

OLE/FAMS personnel assignments to VIPR teams are 6 months, and can be extended to 1 year. As a VIPR team member, FAMs can engage in their role as law enforcement officers and obtain experience in more transportation environments. TSA said that having a large number of FAMs with VIPR skills, experiences, and equipment is valuable for surge capacity in support of credible threats, high priority events, or terrorist incident.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

OSO will assess VIPR rotation length for its personnel and, if the assessment supports a change in assignment durations, will extend assignments for the VIPR team TSS-E, TSI, and BDO.

OIG Analysis: Although TSA did not concur, we consider TSA's action responsive to Recommendation 10, which is resolved and open. SFAMs are responsible for supervising the VIPR Program and its operations, and FAMs and OSO personnel have more direct interaction with stakeholders and partners. A key component of the VIPR Program's effectiveness is establishing, maintaining, and enhancing stakeholder and partner relationships and capabilities. As a result, additional consideration for extending FAM and OSO personnel assignments on VIPR teams is prudent. This recommendation will remain open pending our receipt of documentation that OSO has assessed VIPR rotation lengths and determined appropriate duration.

Transportation Security Inspector Roles and Responsibilities Are Performed Inconsistently

The *9/11 Act* and TSA guidance allocate FAMs, TSIs, TSOs, BDOs, TSS-Es, and explosive detection canine teams to support VIPR operations. Partners and stakeholders select from these capabilities and assets to augment their security operations. However, the TSI's role on VIPR teams is inconsistent, as defined position duties and requirements are not always performed or leveraged.

VIPR Program Team Composition Varies by Stakeholder

Transit agencies participating in VIPR operations work with TSA field leadership to request a combination of available TSA personnel and assets to augment security at their venues. As a result, VIPR operations may not include all TSA capabilities. Table 4 shows TSA VIPR participation on deployments we observed.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Table 4: TSA Asset Participation on VIPR Operations

	FAM	SFAM	BDO	TSI	TSO	TSSE	Canine
Operation 1							
Operation 2							
Operation 3							
Operation 4							
Operation 5							
Operation 6							
Operation 7							
Operation 8							
Operation 9							
Operation 10							
Operation 11							

Source: OIG analysis.

The Transportation Security Inspector's VIPR Role Is Not Consistent

According to the VIPR Concept of Operations, TSIs are TSA's rail and mass transit safety and security subject matter experts. The VIPR Standard Operating Procedures state that TSIs should be a "visual deterrent, provide modal-specific expertise, and respond to security related incidents," and require TSIs to inspect rail cars while the cars are stationary at VIPR venues. Aside from VIPR operations, TSIs perform vulnerability assessments and serve in a regulatory capacity in the mass transit environment.

In the 11 operations we observed, TSIs performed some duties described in these VIPR documents. For example, TSIs conducted pre-VIPR operation briefings at four venues. These briefings provided VIPR participants with information about the venues, including safety features and emergency escape routes, or introduced team members and their roles. TSIs were team leaders for two operations. At all venues, TSIs wore jackets with "TSA Inspector" printed on the back to convey a visible asset.

TSIs serve as a visible presence during operations. Of the 26 partners or stakeholders we interviewed, only 3 said that TSIs are contributing as subject



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

matter experts during VIPR operations. Several partners, stakeholders, and TSA officials, including two TSIs, were unsure what role TSIs are expected to perform. The two TSIs attributed the confusion to insufficient guidance. Additionally, TSIs serve in a regulatory capacity in the mass transit environment and can impose fines on stakeholders, which further confuses their role in a voluntary security enhancement program such as VIPR.

Refining TSI roles and responsibilities during VIPR operations could enhance use of this asset. For example, in their regulatory capacity, TSIs are required to conduct station profiles and analyze and report on existing security practices, as well as on areas needing improvement. Transit agencies use these reports to apply for various Federal grants to improve practices and rectify any deficient areas identified by TSIs. As TSIs have knowledge of security practices and grants available to transit agencies, they are in a unique position to assist transit agencies.

In addition, the *9/11 Act* permits transit agencies receiving grants to use funds to acquire security response training and exercises. Working with TSNM's Mass Transit Division, TSIs could help transit agencies take advantage of training opportunities and planning exercises. VIPR teams could also use TSIs to identify station vulnerabilities and assist in planning VIPR operations. Using the resources and information available, TSIs can assist stakeholders, while being a valuable asset to VIPR teams. Redefining TSI roles and responsibilities will enhance team and stakeholder relationships, leverage their capabilities better, and improve VIPR Program efficiency and effectiveness.

Recommendation

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #11: Refine Standard Operating Procedures to reflect appropriate roles and responsibilities for TSIs during VIPR operations.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Management Comments and OIG Analysis

Management Response to Recommendation #11: TSA officials concurred with Recommendation 11. In its response, TSA said that the VIPR Program has started reviewing the VIPR Standard Operating Procedures, and will update the TSI role during operations and leverage TSI subject matter expertise. The Compliance Section of OSO was involved in the policy update and will be integral to implementing this recommendation. The policy update is currently in TSA's approval process.

OIG Analysis: We consider TSA's actions responsive to Recommendation 11, which is resolved and open. This recommendation will remain open pending our receipt of the updated VIPR Standard Operating Procedures, which clearly defines the TSI role on VIPR teams.

Canine Teams Add Value to VIPR Operations

The National Explosives Detection Canine Team Program trains and certifies canines and handlers to detect explosive and chemical substances in all modes of transportation. This program provides TSA with 45 multimodal/mass transit canine teams. These teams are highly visible, enhance screening capabilities, and help build stakeholder relationships. Until November 2011, TSA canine teams had been allocated between OSO and OLE/FAMS—23 and 22 teams respectively—to support transportation security operations.

TSA Canine Team Realignment Effects

In November 2011, TSA announced that it was realigning the 22 VIPR FAM canine teams with OSO canine teams to mitigate challenges associated with parallel operational structures. In the realignment, FAMs could transfer with their canine to OSO and remain handlers, but were required to surrender their law enforcement authority and retirement benefits. Only two FAM canine teams transferred to OSO.

The remaining OLE/FAM handlers returned to flying duties or other ground-based assignments, and the canines were returned to the National Explosives Detection Canine Team Program. As a result, only 25 OSO canine teams



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

remained to assist with VIPR Program operations. In addition, OSO canine teams are stationed at airports and are available to assist VIPR Program operations only at an FSD's discretion. All canine teams complete explosive and chemical detection training, but not all handlers have law enforcement authority. Although all canine handlers complete the same training, their authority to operate within the transit environment varies and affects a canine team's ability to secure transportation infrastructure. For example, a law enforcement canine handler is authorized to stop, search, and question a person when the canine detects explosive material. A TSI canine handler, however, does not have law enforcement authority, may not stop an individual, and must request assistance from a law enforcement officer.

Law enforcement authority allows FAMs and stakeholder officers to respond immediately to a situation. Pairing this capability with TSA's primary mission to protect all modes of transportation against a terrorist attack makes law enforcement canine handlers more valuable. Recognizing the need for canine teams to have law enforcement present at a VIPR operation, one stakeholder said that it would prefer to use its law enforcement officer to handle an OSO canine rather than use an OSO handler and canine. An OSO official said that VIPR teams relied more on stakeholder canine teams after the program realigned to all-OSO handlers.

Costs and Benefits of Canine Teams

Before the realignment, each FAM canine team cost approximately \$220,000 annually; these costs include the handler's salary and canine maintenance and veterinary care. After the realignment, TSA provides canines only to TSIs and State and local law enforcement entities. Each TSI canine team cost approximately \$170,000 annually, and future year costs become lower as initial startup and training costs do not recur. For participating State, local, and transit agency law enforcement entities, TSA provides an annual stipend of up to \$50,000 for canines. The stipend helps to offset canine maintenance and veterinary costs.

In exchange for the canine and funding, stakeholders are required to maintain TSA canine certification and must support TSA missions in aviation, mass transit, or cargo environments 80 percent of the time. State and local law enforcement



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

canine teams can assist other agencies at different venues for the remaining 20 percent of the time. Table 5 compares the costs and benefits associated with the three canine team program options: TSI, FAM, and State and local law enforcement.

Table 5: Costs and Benefits of Canine Handler Options

	OLE/FAM Canine Handler	OSO Canine Handler	Transit/Local Police Officer Canine Handler
DHS' Annual Cost per Team	\$220,000	\$170,000	\$50,000
Immediate Response Time	✓		✓
Law Enforcement Intervention Capability	✓		✓
Immediate TSA "command and control"	✓	✓	

Source: OIG analysis.

Recommendation

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #12: Evaluate the realignment to determine any potential adverse effects on TSA's ability to ensure that VIPR teams have sufficient access to law enforcement canine teams.

Management Comments and OIG Analysis

Management Response to Recommendation #12: TSA officials concurred with Recommendation 12. In its response, TSA said it assessed program data for Explosives Detection Canine Teams since the December 2011 realignment. The number of non-FAMS Explosive Detection Canine Teams participating in VIPR



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

operations each month has remained constant since the realignment, indicating no decline in availability of Explosive Detection Canine Teams. TSA said the combination of non-FAMS Explosive Detection Canine Teams with the requirement for law enforcement presence at all operations, indicates that there have been no adverse effects. TSA respectfully requests to close this recommendation based on this evaluation.

OIG Analysis: We consider TSA's actions responsive to Recommendation 12, which is resolved and open. Protecting transportation modes from dangerous or terrorist activity requires immediate law enforcement officer response to various situations. As a result, additional consideration is necessary to ensure that non-FAMS Explosive Detection Canine Teams maintain the ability to respond. This recommendation will remain open pending our receipt of the documented assessment that verifies law enforcement capabilities and effectiveness are maintained during VIPR operations with non-FAMS Explosive Detection Canine Teams.

Standardized VIPR Training and Team Participation in Joint Exercises Is Needed

OSO and OLE/FAMS have developed and deployed separate VIPR training courses, but there is no established and uniform training program for all VIPR participants. Standardized training improves operational efficiency and ensures that team members are informed of appropriate procedures. In addition, joint exercises allow VIPR participants to work with partners and stakeholders and learn how each responds to incidents. Incorporating existing courses from both OSO and OLE/FAMS would establish a more uniform training baseline and understanding of all VIPR Program roles and capabilities.

VIPR Training Opportunities Exist

As of December 2011, OLE/FAMS had developed and deployed VIPR-specific courses, but an overall VIPR training curriculum had not been approved. Existing courses include Basic Handcuffing Techniques (which emphasizes ground-based deployments), Field Interviewing, Arrest Procedures, VIPR Legal, VIPR Overview, and Ground-Based Incident Response (which includes active shooter scenarios). The VIPR Crowd Control Overview course was developed and awaiting



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

deployment approval. OLE/FAMS may also complete DNDO training on PRND equipment.

OSO has a VIPR training curriculum; however, this training is required only for TSIs. Courses include Railroad 101, Transit Rail Security, and Transit Rail Incident Investigation. TSIs must complete Railroad 101 before accessing rail yards. In contrast, BDOs, TSOs, TSS-Es, and additional OSO assets are required to complete only partner and stakeholder rail safety training before accessing transit venues.

Some VIPR team members also complete the Department of Transportation's Federal Motor Carrier Safety Administration course "Trucks – Rapid Risk Recognition, Assessment, and Response." This course teaches criminal behavior indicators, interview techniques, and concealment techniques in the motor carrier environment.

In addition, partners and stakeholders often require VIPR team members to complete training before permitting operations in their systems, so that teams have a common understanding of specific venues and infrastructure. Of the 26 partners and stakeholders we interviewed, 18 had VIPR team member training courses.

Additional VIPR Training Opportunities Are Being Developed

Both OLE/FAMS and OSO officials acknowledge the need to improve VIPR training. For example, in a June 2011 memorandum, OLE/FAMS officials proposed a FAM VIPR curriculum to include existing courses, as well as updating or creating new courses. The memorandum proposes updating the VIPR Overview course to emphasize the terrorist planning cycle, and creating Encountering and Disarming an Armed Subject and VIPR Equipment Familiarization courses. Also, the Federal Law Enforcement Training Center built an onsite Intermodal Training Facility in August 2011, and OLE/FAMS has three instructors embedded in its Counterterrorism Training Division.³³ These

³³ The Federal Law Enforcement Training Center is an interagency law enforcement training organization for Federal, State, local, tribal, and international law enforcement agencies.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

instructors review existing and planned training materials to enhance the OLE/FAMS VIPR curriculum.

OSO is developing a VIPR 101 course, which instructs team members on VIPR policy, legal authority, planning, and operations. In addition, OSO is developing a Railroad 101 for Law Enforcement Officers course, which introduces law enforcement officers to basic railroad information and safety and addresses situational awareness, presence, and involvement. Although this course is appropriate for FAMS, other courses, such as Transit Rail Security and Transit Rail Incident Investigation, are also relevant.

In 2011, TSA centralized all training responsibilities within its Office of Training and Workforce Engagement. This office is tasked with combining all existing technical, leadership, and workforce training. By leveraging OLE/FAMS and OSO existing and planned VIPR specific courses, the Office of Training and Workforce Engagement could assist them with developing a standardized VIPR Program curriculum.

VIPR Teams Participate in Joint Exercises With Partners and Stakeholders

In addition to training courses, some VIPR teams participate in partner and stakeholder exercises. As a result of joint exercises, these entities and VIPR teams develop better relationships and learn appropriate team member roles and situational responses. Although partners and stakeholders initiate most joint exercises, TSNM also can facilitate exercises with transit agencies by using the Intermodal Security Training Exercise Program. This program provides surface transportation communities with meaningful evaluations of their preparedness for and ability to respond to terrorist-related incidents. It exercises potential transportation security scenarios with various Federal, State, and local entities, including law enforcement and first responders. In conjunction with the Intermodal Security Training Exercise Program, TSA uses the Exercise Information System to plan and implement exercises, and the Exercise Evaluation System to record activity and evaluate decisions made during exercises.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendations

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #13: Develop and implement a TSA-wide VIPR training program, to include rail safety and ground-based incident response training scenarios.

Recommendation #14: Evaluate exercises that could incorporate VIPR teams, law enforcement partners and stakeholders, and determine the feasibility of conducting joint exercises in all VIPR Program field offices and areas of responsibility.

Management Comments and OIG Analysis

Management Response to Recommendation #13: TSA officials concurred with Recommendation 13. In its response, TSA said that the VIPR Program is coordinating with TSA's Office of Training and Workforce Engagement on developing an overarching training capability. The VIPR Program and Office of Training and Workforce Engagement are discussing with the Federal Law Enforcement Training Center about holding an initial VIPR Curriculum Development Conference at its facility in Glynco, GA. The first VIPR Curriculum Development Conference may be held at the new Federal Law Enforcement Training Center Intermodal Training Facility, which can facilitate training in various transportation modes. It will also provide an opportunity to partner with the Federal Law Enforcement Training Center to leverage relevant its existing counterterrorism-related curriculum and curriculum development assets.

The VIPR training program will need to consider the outcomes and VIPR operational changes based on recommendations contained in this report. Building in training flexibility to adapt to emerging operational practices and emerging threats will also be critical.

OIG Analysis: We consider TSA's actions responsive to Recommendation 13, which is resolved and open. This recommendation will remain open pending our receipt of the TSA-wide VIPR Program training materials.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Management Response to Recommendation #14: TSA officials concurred with Recommendation 14. In its response, TSA said that joint exercises between TSA and its partners and stakeholders are invaluable to identify operational needs and demonstrate capabilities. In addition, joint exercises can identify operational gaps that can be resolved through effective training solutions.

TSA said that the VIPR Program will work with the Office of Security Policy and Industry Engagement to determine how the Intermodal Security Training and Exercise Program exercises and other joint exercises could be integrated effectively into existing VIPR operational activities. This information can be incorporated into stakeholder relationship activities to increase the level of consistency with which joint exercises are considered, planned, and conducted.

OIG Analysis: We consider TSA's action responsive to Recommendation 14, which is resolved and open. In addition to consulting the Office of Security Policy and Industry Engagement Program, TSA should consult its field offices to determine which joint training and exercises with stakeholders and partners are currently conducted and can be replicated at other field offices. This recommendation will remain open pending our receipt of guidance to field offices on implementing joint training and exercises with stakeholders and partners.

Equipment Maintenance Enhances Effectiveness, and OSO Safety Gear May Be Necessary

On some VIPR operations, TSOs use explosive trace detection screening machines and FAMs operate PRND equipment. There are concerns, however, that equipment is infrequently maintained and not calibrated for the mass transit environment. When conducting operations, OSO assets can wear TSA uniforms to be visible; however, they may not have enough protection in mass transportation environments.

Equipment Maintenance Is Infrequent

TSA officials said that explosive trace detection machines and PRND equipment used for VIPR operations are not maintained or calibrated regularly, which can



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

cause ineffective and inefficient operations. A number of transit agencies and TSOs also expressed concern regarding screening machine accuracy.



Partners and stakeholders stop screening operations when excessive innate positive readings occur. VIPR Program officials need to explore options to rectify excessive innate positive readings during VIPR screening operations.

In June 2008, DNDO began working with the VIPR Program to provide FAM-led VIPR teams with PRND equipment. Since 2008, PRND equipment has not received maintenance or calibration, and several field offices said that the equipment is inoperable. To resolve this issue, DNDO and TSA officials are drafting an agreement to establish a PRND equipment maintenance schedule.

OSO Assets May Need Safety Gear

Uniforms enhance VIPR operation visibility and can be a deterrent to terrorist or criminal activity. Uniformed VIPR operations are often associated with local law enforcement officers and FAMs, but stakeholders can also request that TSOs, TSIs, or BDOs wear uniforms. Some TSA officials expressed concern that uniformed OSO assets could be targets for those with criminal intent, as they are unarmed and not issued protective gear. In an effort to protect OSO assets, one field office issued safety gear, such as ballistic vests.

To address safety concerns, some OSO VIPR team members prefer non-uniform, plain clothes operations. A uniformed presence can deter terrorists, but plain clothes operations are also beneficial because assets can perform counter surveillance and watch passenger reactions to uniformed personnel, as well as blend with passengers to observe suspicious activity.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendations

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #15: Ensure that screening equipment used for VIPR operations is calibrated for the mass transit environment.

Recommendation #16: Conduct an evaluation to determine what safety and protective gear should be provided to OSO assets when participating on VIPR operations.

Management Comments and OIG Analysis

Management Response to Recommendation #15: TSA officials concurred with Recommendation 15. In its response, TSA said that prior to our review, the VIPR Program had already started to address the calibration and maintenance issue for PRND equipment assigned to all OLE/FAMS-led VIPR teams. Maintenance and warranty contracts have been established for all PRND equipment. VIPR Program management personnel are working with DNDO to develop and implement protocols for the same.

The VIPR Program is working with TSA's Office of Security Capabilities to define requirements and calibration protocols for explosives trace detection technologies used during surface VIPR operations. TSA's Office of Training and Workforce Engagement is developing specific training requirements for any technologies deployed on VIPR operations, specifically TSO use of Multi-Modal Trace Detection technology.

OIG Analysis: We consider TSA's actions responsive to Recommendation 15, which is resolved and open. This recommendation will remain open pending our receipt of guidance regarding screening equipment maintenance and calibration procedures.

Management Response to Recommendation #16: TSA officials concurred with Recommendation 16. In its response, TSA said that it is currently assessing the role of OSO assets in VIPR operations. The results of that assessment can affect



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

safety and protective equipment requirements for OSO assets. Building from that assessment, the VIPR Program can assess both the safety and protective equipment needs for all VIPR personnel types who participate in VIPR operations. The findings from these evaluations will also inform the VIPR training development process.

OIG Analysis: We consider TSA's actions responsive to Recommendation 16, which is resolved and open. This recommendation will remain open pending our receipt of the final assessment regarding issuing safety and protective equipment to OSO personnel for use during VIPR operations.

Conclusion

The 9/11 Act authorized TSA to form VIPR teams, which can consist of any DHS asset, including FAMs, TSIs, explosive detection canine teams, or screening technologies. Additional staffing and funding have led to increased VIPR operations, and the VIPR Program has improved its ability to establish effective partner and stakeholder relationships. However, organizational, programmatic, and operational challenges remain. Specifically, the VIPR Program's placement within TSA hinders its ability to ensure coordinated VIPR field activities. Guidance is needed to clarify law enforcement activities, team member roles and responsibilities, and equipment use during VIPR operations. Additionally, VIPR deployment methodology needs refinement, and resources are not allocated proportionately to team workloads across the Nation. Teams do not receive standardized training, and the length of VIPR team member assignments affects program effectiveness. TSA can enhance program efficiency and effectiveness by addressing these challenges.



Appendix A

Objectives, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

We assessed TSA efforts to deploy VIPR teams to augment security in rail and mass transit systems as part of our *Fiscal Year 2011 Annual Performance Plan*. Our review focused on whether TSA has integrated Federal and local partners in planning and executing VIPR deployments, and on the efficiency and effectiveness of the VIPR Program to enhance security, identify suspicious behavior, and deter potential terrorist attacks on rail and mass transit systems.

Our objectives were to determine the methodology TSA uses to select VIPR deployments; whether geographic location and critical infrastructure affect the conduct of VIPR team operations; and whether VIPR teams are efficient and effective in augmenting local, State, and Federal efforts to enhance security on rail and mass transit systems.

To accomplish our objectives, we interviewed Federal officials and State and local law enforcement personnel, and reviewed and analyzed related documents and data. Specifically, we interviewed officials and staff from TSA, U.S. Coast Guard, U.S. Customs and Border Protection, U.S. Secret Service, Office of Policy, Office of Civil Rights and Civil Liberties, the Privacy Office, DNDO, and the National Protection and Programs Directorate. We also met with officials from the Department of Transportation, including the Federal Railroad Administration, Federal Transit Administration, and Federal Motor Carrier Safety Administration, to gain their perspectives on the VIPR Program.

To assess the efficiency and effectiveness of TSA's VIPR Program to augment security in rail and mass transit systems, we conducted site visits and interviews with the following stakeholders:



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

- Amtrak Police Department
- Bay Area Regional Transit
- Chicago Police Department
- CSX Railroad
- Foothill Transit
- Greater Cleveland Regional Transit Authority
- Long Beach Transit
- Los Angeles Sheriff's Office
- Massachusetts Bay Transit Authority
- Maryland Transit Administration
- Maryland Transportation Authority
- Metropolitan Washington Airports Authority
- New York Metropolitan Transit Authority
- New York Police Department
- Northeastern Illinois Regional Commuter Railroad Corporation (Metra)
- Port Authority of New York and New Jersey
- San Francisco Police Department
- Southeastern Pennsylvania Transit Authority
- Virginia Department of Transportation
- Virginia Railway Express
- Washington Metropolitan Area Transit Authority

We held discussions with officials from the Government Accountability Office, the Metropolitan Atlanta Rapid Transit Authority Police Department, the New Jersey Transit Police Department, and the American Public Transit Association to gain their perspectives on TSA's VIPR Program.

In addition, we examined VIPR Program guidelines and procedures, including applicable laws, regulations, and policies. We also assessed the resources that DHS and its operational components provide to the VIPR Program.

Our fieldwork began in August 2011 and concluded in December 2011. We initiated this review under the authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspections*, issued by the President's Council on Integrity and Efficiency.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

We conducted this review under the authority of the *Inspector General Act of 1978*, as amended, and according to the Quality Standards for Inspections issued by the Council of the Inspectors General on Integrity and Efficiency.



Appendix B

Recommendations

We recommend that the Administrator for the Transportation Security Administration:

Recommendation #1: Develop and implement a public awareness initiative to convey the VIPR Program's intent.

Recommendation #2: Clarify the definitions of VIPR operations and provide guidance to headquarters and the field about how to complete operational documentation to correctly report operations.

Recommendation #3: Establish and implement a data reporting procedure that ensures information submitted to the Joint Coordination Center is updated and reflects each VIPR operation accurately.

Recommendation #4: Develop and communicate guidance for FAM engagement protocols and legal authorities when VIPR teams encounter potential or actual criminal activity in mass transit environments.

Recommendation #5: Provide enhanced guidance regarding risk-based deployment planning and increase access to risk assessment information that VIPR teams can use to prioritize deployments with partners and stakeholders.

Recommendation #6: Designate VIPR Program decision-making authority to one TSA headquarters office to ensure that overall field operations, program activity and engagement, and oversight are coordinated effectively.

Recommendation #7: Ensure coordination and engagement between local VIPR team leaders and the Playbook Manager, and ensure that airport law enforcement VIPR operations are integrated with Security Playbook operations.

Recommendation #8: Re-distribute existing VIPR FAM position allocations among field offices according to high-threat urban areas, critical infrastructure, and mass transit networks using a risk-based methodology.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Recommendation #9: Develop a process to increase oversight regarding the availability and involvement of OSO personnel and assets to OLE/FAM-led VIPR teams.

Recommendation #10: Extend OLE/FAMS and OSO VIPR assignments for more than 1 year.

Recommendation #11: Refine Standard Operating Procedures to reflect appropriate roles and responsibilities for TSIs during VIPR operations.

Recommendation #12: Evaluate the realignment to determine any potential adverse effects on TSA's ability to ensure that VIPR teams have sufficient access to law enforcement canine teams.

Recommendation #13: Develop and implement a TSA-wide VIPR training program, to include rail safety and ground-based incident response training scenarios.

Recommendation #14: Evaluate exercises that could incorporate VIPR teams, law enforcement partners and stakeholders, and determine the feasibility of conducting joint exercises in all VIPR Program field offices and areas of responsibility.

Recommendation #15: Ensure that screening equipment used for VIPR operations is calibrated for the mass transit environment.

Recommendation #16: Conduct an evaluation to determine what safety and protective gear should be provided to OSO assets when participating on VIPR operations.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Appendix C

Management Comments to the Draft Report

U.S. Department of Homeland Security
601 South 12th Street
Arlington, VA 20598



**Transportation
Security
Administration**

JUN 20 2012

INFORMATION

MEMORANDUM FOR: Charles K. Edwards
Acting Inspector General

FROM: John S. Pistole *John S. Pistole*
Administrator

SUBJECT: Transportation Security Administration's (TSA) Response to
Department of Homeland Security (DHS) Office of Inspector
General's (OIG) Draft Report Titled *Efficiency and Effectiveness
of TSA's Visible Intermodal Prevention and Response Program
within the Rail and Mass Transit Systems*, OIG Project
No. 11-073-ISP-TSA

Purpose

This memorandum constitutes TSA's formal Agency response to the DHS OIG draft report *Efficiency and Effectiveness of TSA's Visible Intermodal Prevention and Response Program within the Rail and Mass Transit Systems*. TSA appreciates the opportunity to review and provide comments to your draft report.

Background

In July 2011, OIG began a review of TSA's Visible Intermodal Prevention and Response (VIPR) Program. OIG's objectives were to determine the methodology TSA uses to select VIPR deployments; whether geographic location and critical infrastructure affect the conduct of VIPR team operations; and whether VIPR teams are efficient and effective in augmenting local, State, and Federal efforts to enhance security on rail and mass transit systems. OIG conducted its fieldwork from August 2011 to December 2011.

Discussion

TSA welcomes the OIG review of the VIPR program. Since the VIPR program was initiated in 2005, conducting approximately 15 operations each month, it has grown to encompass the involvement of about 700 TSA personnel working with transportation security and law



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

2

enforcement stakeholders in more than 500 communities. TSA VIPR personnel augment Federal, State, tribal, territorial, and local personnel to now conduct approximately 1,000 operations monthly in all modes of transportation.

The primary objective of TSA's VIPR Program is to detect, deter, disrupt, and defeat acts of terrorism in all modes of transportation and over all transportation entities, such as railroad carriers, over-the-road bus operators and terminal owners and operators, motor carriers, public transportation agencies, owners or operators of highways, port operators and facility owners, vessel owners and operators, and pipeline operators. 6 U.S.C. § 1112(a)(4). TSA is authorized to utilize any asset, including Federal Air Marshals (FAMs), to augment the security in any mode of transportation. 6 U.S.C. § 1112(a)(1).

As set forth in the report, questions arose regarding the scope, sufficiency, and messaging of Federal Air Marshal legal authorities as they pertain to VIPR operations, notably in the surface transportation environment. There is no question that Federal Air Marshals are Federal law enforcement officers and are imbued with the authorities necessary to engage in a wide variety of law enforcement activities. These authorities permit them to act not only within the special aircraft jurisdiction, but in all transportation venues.

Section 114 (p) of the Aviation and Transportation Security Act (ATSA) specifically authorizes FAMs, as TSA's law enforcement officers, to carry a weapon, seek and execute warrants, and make arrests without a warrant for any offense against the United States committed in the presence of the officer, or for any felony cognizable under the laws of the United States if the officer has probable cause to act. 49 U.S.C. § 114 (p). These law enforcement authorities are constant and immutable, and apply equally when a FAM is working within the special aircraft jurisdiction or engaging in a VIPR at a train station in one city or a bus station in another.

Accordingly, we believe that the conferral of State law enforcement authorities on FAMs, such as Peace Officer status, is unnecessary. However, FAMs, by virtue of their status as Federal law enforcement officers already possess the authority to engage in a wide variety of law enforcement activities, including, conducting passenger interviews, seizing evidence, conducting Terry stops and Terry frisks, and making arrests when probable cause exists.

Furthermore, state and local law enforcement officers, with whom we partner on the great majority of VIPR deployments, are singularly capable and qualified to address the State criminal law enforcement violations encountered on a VIPR operation. Indeed, VIPR Deployment Operation Plans (DOP), which describe VIPR operations in a particular geographic area and with enumerated stakeholders, delineate the roles of all law enforcement officers, and specifically require that all criminal activity be reported to and investigated by those local law enforcement officials.

This should not be understood to suggest that FAMs are unfamiliar with State criminal legal precepts. Indeed, FAMs receive initial and annual training on the Fourth Amendment, arrest procedures, use of force, and evidentiary issues; and, as discussed above, FAMs are authorized to engage in the panoply of law enforcement activities.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

3

Moreover, whenever a criminal act of violence occurs in the presence of a FAM, the FAM is not precluded from intervening to stop the act or apprehend the subject; even in cases when the violation is one of State law. The Federal Air Marshal Service is currently in the process of developing policy guidance modeled on the Federal Good Samaritan Act, which provides that a Federal law enforcement officer may be considered to be acting within the scope of employment if the officer takes reasonable action, including the use of force, for the following:

1. To protect an individual from a crime of violence, if the crime occurred in the officer's presence.
2. To provide assistance if the officer believes that the individual has suffered or is threatened with bodily harm.
3. To prevent the escape of an individual the officer reasonably believes to have committed a crime of violence while within the officer's presence.

See, PL 105-277, 112 Stat. 2681, 2681-519 (1998) (Federal Good Samaritan Act).

Although FAMs receive annual instruction on the application and limitations of the Federal Good Samaritan Act, we believe that a formalized policy would eliminate any remaining confusion on the scope of a FAM's authority to respond to a State law crime of violence.

While the Office of Law Enforcement/Federal Air Marshal Service (OLE/FAMS) acknowledges that programmatic improvements could be made to ensure that all FAM personnel, VIPR participants, and stakeholders are better acquainted with the nature and extent of FAM authorities, we do not concur that expanding FAM authorities through the conferral of Peace Officer or similar status is operationally necessary.

Given the dramatic growth of the program, the timing of the OIG review is particularly valuable in assessing the processes being used and the results that are being achieved. As the OIG review affirms, there are complex challenges to effectively operating a program of this size with personnel from multiple offices at both headquarters and in the field.

TSA seeks continual improvement in the efficiency and effectiveness with which the VIPR program operates. Many of the opportunities cited in the OIG's report were known to the program and, as this response indicates, improvement projects have already been implemented in most instances. TSA appreciates that the OIG review supports many of the program's management approaches. These approaches have allowed TSA to establish operating policies and procedures to achieve dramatic program growth while also acknowledging potential for improvement.

Overall, the OIG recommendations will help TSA to continue to improve and to implement a more effective VIPR program. We concur with many of the recommendations and have already taken steps to address them. What follows are TSA's specific responses to the recommendations contained in OIG's report.

Recommendation #1: Develop and implement a public awareness initiative to convey the VIPR Program's intent.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

4

TSA concurs.

The VIPR Program is working in conjunction with TSA's Office of Strategic Communications and Public Affairs (OPA) on the development of a Public Affairs Guidance document and their participation in media exchanges. OPA will also work with the Office of Security Policy and Industry Engagement (OSPIE) to create a proactive initiative with stakeholders as a second part of the public awareness strategy. The third part of the strategy will include outreach and education initiatives with external stakeholders to ensure personnel participating in the VIPR operations have accurate and timely messaging.

Recommendation #2: Clarify the definitions of VIPR operations and provide guidance to headquarters and the field about how to complete operational documentation to correctly report operations.

TSA concurs.

Operations data accounting is a program-level responsibility that is handled consistently and accurately by Joint Coordination Center (JCC) personnel and program analysts. The program agrees that the process would be enhanced by increased understanding by field personnel of the definition of an operation.

For metric purposes, the VIPR Program considers an operation to be "the deployment of VIPR personnel (TSA and non-TSA) at a venue in a specific mode for a defined period of time." Recognizing the variation to be encountered at the local level, the program does not mandate minimum or maximum requirements in regard to personnel or duration. Field personnel, working with stakeholders, determine whether a venue includes multiple modes and whether or not connected venues (i.e. transit stations) are to be considered as a single VIPR activity or multiple VIPR activities, requiring multiple Activity Summary Reports (ASR).

The JCC has recently updated and communicated guidance to VIPR field personnel about how to more consistently and accurately complete the ASR, the planning and deployment record. In addition, the JCC will communicate the definition of an operation to field personnel.

Recommendation #3: Establish and implement a data reporting procedure that ensures information submitted to the Joint Coordination Center is updated and reflects each VIPR operation accurately.

TSA concurs.

The system design and development team for the VIPR Information Management System (VIMS) recognized this opportunity for improvement and coded the system to drive consistent reporting from the field and analysis by the program. VIMS is currently scheduled to be implemented in the first quarter of fiscal year (FY) 2013.

Recommendation #4: Develop and communicate guidance for FAM engagement protocols and legal authorities when VIPR teams encounter potential or actual criminal activity in mass transit environments.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

5

TSA concurs.

The objective of the VIPR program is to deter and prevent terrorist activities in any mode of transportation. TSA understands that VIPR personnel may encounter criminal activity while conducting operations; however, it is the role of their local law enforcement partners to address it while the focus of the VIPR teams remains on counterterrorism activities. As field understanding of the existing guidance regarding FAM engagement protocols and legal authorities is not being consistently applied, TSA will implement increased communication with field personnel to increase the level of understanding and application of the protocols and authorities. TSA also anticipates this topic being addressed in the training programs that are in development.

Recommendation #5: Provide enhanced guidance regarding risk-based deployment planning and increase access to risk assessment information that VIPR teams can use to prioritize deployments with partners and stakeholders.

TSA concurs.

Through the high-risk infrastructure lists developed with OSPIE, the VIPR Program currently provides risk-based guidance to field personnel for assisting in the assessment of stakeholders, primarily based on potential consequences of terrorist actions. With the infrastructure lists as base guidance, the VIPR Program then relies on field personnel working with stakeholders to assess the potential consequences at their individual venues and to assess the vulnerabilities of those locations. Based on that local consideration, VIPR field personnel, again working with the stakeholders, determine which VIPR capabilities can mitigate those vulnerabilities.

The VIPR Program strives for continual improvement in their risk-based methodology, working with OSPIE on data availability and working with field personnel to increase the consistency with which risk-based decision-making is applied. VIPR will continue to communicate the use of risk-based tools, techniques and information to support planning and scheduling of VIPR operations with stakeholders.

Recommendation #6: Designate VIPR Program decision-making authority to one TSA headquarters office to ensure that overall field operations, program activity and engagement, and oversight are coordinated effectively.

TSA does not concur.

TSA has designated the Field Operations organization within OLE/FAMS to have management responsibility for the VIPR program. As such, OLE/FAMS collaboratively manages the VIPR Program when decision-making crosses organizational lines.

Recognizing the challenges of a multi-functional program, the VIPR organization structure includes section chiefs from OSO and OSPIE who have the responsibilities for communicating with their organization leadership and engaging them in policy development analysis.

Given the designation of management responsibility and the collaborative management structure of the program organization, TSA believes its organization structure best serves the interests



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

6

of internal and external stakeholders and does not intend to make additional organizational change.

Recommendation #7: Ensure coordination and engagement between local VIPR team leaders and the Playbook Manager, and ensure that airport law enforcement VIPR operations are integrated with Security Playbook operations.

TSA does not concur.

The specific wording of the OIG recommendation does not easily translate into a tangible end-state. VIPR operations always require advance coordination and notification to stakeholders as well as approval of the Federal Security Director (FSD) prior to deployment. Playbook's mission and authority allows for last minute execution of security activities. FSDs are responsible for the planning and execution of risk mitigation strategies and activities to be deployed in their airports, coordinating VIPR operations with the appropriate OLE/FAMS Supervisory Air Marshal in Charge (SAC). As such, the FSD and SAC are responsible for determining the best strategies to use assets, capabilities, and programs. TSA will encourage regular communication among VIPR and Playbook leadership to develop guidance regarding leveraging the capabilities of both programs to more effectively mitigate risk.

Recommendation #8: Redistribute existing VIPR FAM position allocations among field offices according to high-threat urban areas, critical infrastructure, and mass transit networks using a risk-based methodology.

TSA does not concur.

Initially (FY 2008), VIPR FAM positions were allocated to urban areas perceived to have the most significant surface transportation infrastructure in all modes of transportation. When the FY 2010 enhancement was received, TSA allocated the positions from the enhancement to areas with the next level of surface transportation infrastructure. Regardless of their area of responsibility, all VIPR FAMs are available to respond if credible intelligence is received regarding threats to a particular geographic area.

In preparation for the proposed FY 2012 enhancement, the VIPR Program developed a process to assess the status of all VIPR assets and to allocate assets with a stronger reliance on risk-based decision making, incorporating consideration of threats, vulnerabilities, and consequences. The VIPR Program applied this approach when assessing where to deploy the OLE/FAMS personnel associated with the FY 2012 enhancement authorized by Congress. VIPR is also in the process of applying this approach to the consideration of asset location for Office of Security Operations (OSO) assets funded by the FY 2012 enhancement.

The VIPR program regularly assesses the deployment patterns of each team and compares that to the available high-risk infrastructure in the area of responsibility (AOR) for each team. To date, the analyses have not revealed operational problems that require redistribution of existing allocations, rather than surging assets as necessary.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

7

Given the fact that consideration of risk-based factors was part of the alignment of all three allocations of VIPR FAMS assets, the nationwide responsiveness of VIPR FAMS personnel, and an analysis of the deployment history for all AORs, TSA does not concur that significant value would be achieved from redistributing the VIPR FAMS position allocations at this time. TSA will continue to monitor deployment patterns and update risk information to determine if realignments should be pursued in the future.

Recommendation #9: Develop a process to increase oversight regarding the availability and involvement of OSO personnel and assets to OLE/FAM-led VIPR teams.

TSA concurs.

VIPR operations involving both OSO and OLE/FAMS personnel encompass approximately 60 percent of all VIPR operations. Guidance to the field has been for the appropriate FSD and FAM SAC to designate operational team leaders and ensure that necessary personnel are available to provide the capabilities identified for each operation. TSA will assess the process for staffing of all TSA resources on VIPR operations and update the guidance as necessary. OSO will develop a process to ensure affected FSDs are in compliance with the directive to assign

to each VIPR team.

Recommendation #10: Extend OLE/FAMS and OSO VIPR assignments for more than one year.

TSA does not concur.

TSA acknowledges the benefits of having VIPR personnel in place for the longest periods possible to establish, maintain, and enhance stakeholder relationships and deployment capabilities. The VIPR program has implemented processes to address these concerns by having Supervisory Federal Air Marshals (SFAMS) assignment durations of 18 months to 3 years. In addition, VIPR team rotations are staggered to reduce the impact on stakeholder relationships.

The program offers assignments to OLE/FAMS personnel with durations of 6 months that can be extended up to 1 year. OLE/FAMS uses these assignments to provide for more FAMs to be able to engage in their role as law enforcement officers and to function in more transportation environments. Developing a deeper pool of FAMs with the VIPR skills, experiences, and equipment is seen as valuable in the event that there is a need to use surge capacity in support of credible threats, high priority events, or terrorist incident.

OSO will assess the VIPR rotation length for its personnel and, if the assessment supports a change in assignment durations, will extend those for the VIPR team TSS-E, TSI-S, and BDO.

Recommendation #11: Refine Standard Operating Procedures to reflect appropriate roles and responsibilities for TSIs during VIPR operations.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

8

TSA concurs.

The VIPR Program has initiated the VIPR Standard Operating Procedure (SOP) revision process to include updates that improve the focus of TSI involvement with VIPR and leverage their subject matter expertise. The Compliance Section of the Office of Security Operations (OSO) was involved in the policy update, which is being routed for approval, and will be integral to the successful implementation of this recommendation.

Recommendation #12: Evaluate the realignment to determine any potential adverse effects on TSA's ability to ensure that VIPR teams have sufficient access to law enforcement canine teams.

TSA concurs.

The VIPR program has assessed program data to increase understanding of the deployment of Explosives Detection Canine Teams (EDCT) since the realignment took effect at the beginning of December 2011. Non-FAMS EDCT involvement has remained at a consistent level of operations per month, indicating no decline in availability of EDCT for VIPR operations. When combined with the guidance requiring a law enforcement presence on all operations, the results indicate to TSA that no adverse effects have been encountered. TSA respectfully requests to close this recommendation based on this evaluation.

Recommendation #13: Develop and implement a TSA-wide VIPR training program, to include rail safety and ground-based incident response training scenarios.

TSA concurs.

The VIPR Program Office has been coordinating with the TSA Office of Training and Workforce Engagement (OTWE) to provide this overarching training capability. Discussions have already begun between the VIPR Program Office, OTWE and the Federal Law Enforcement Training Center – Glynco, GA (FLETC–GLY), to hold an initial VIPR Curriculum Development Conference (CDC) at FLETC–GLY in the near term. The key components within OTWE in this effort will be the Law Enforcement and Industry Training Division, which is responsible for all OLE/FAMS operational training, and the Security Operations Training Division, which is responsible for all OSO operational training. It is anticipated this first CDC will be held against the backdrop of the new FLETC Intermodal Training Facility, which can facilitate training in various transportation modes. It will also provide an opportunity to partner with FLETC to leverage relevant existing FLETC counterterrorism related curriculum and curriculum development assets.

Effective planning of a TSA-wide VIPR Training Program will also need to consider other outcomes and VIPR operational changes based on recommendations contained in this overall report that will affect VIPR operational practices and procedures. Building in training flexibility to adapt to emerging operational practices and emerging threats will also be critical.

Recommendation #14: Evaluate exercises that could incorporate VIPR teams, law enforcement partners and stakeholders, and determine the feasibility of conducting joint exercises in all VIPR Program field offices and areas of responsibility.



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

9

TSA concurs.

From a training standardization perspective, joint exercises between TSA and our partners and stakeholders are invaluable in providing information for a training gap analysis. Although primarily designed to identify operational needs and demonstrate capabilities, joint exercises can identify operational gaps that can be closed through effective training solutions.

The VIPR Program will work with OSPIE to establish a process for assessing how the Intermodal Security Training and Exercise Program (I-STEP) exercises and other joint exercises could be effectively integrated with VIPR operational activities that occur. That process can then be incorporated into stakeholder relationship activities to increase the level of consistency with which joint exercises are considered, planned, and conducted.

Recommendation #15: Ensure that screening equipment used for VIPR operations is calibrated for the mass transit environment.

TSA concurs.

Prior to the audit, the VIPR Program had already begun to address the issue of calibration and maintenance programs for Preventative Radiological/Nuclear Detection (PRND) equipment assigned to all OLE/FAMS led VIPR teams. Maintenance and warranty contracts have been established for all PRND equipment. VIPR Program management personnel are working with the Domestic Nuclear Detection Office (DNDO) to develop and implement protocols for the same.

The VIPR Program has established a project with TSA's Office of Security Capabilities to define requirements for explosives trace detection technologies for use in surface VIPR operations. These requirements include establishment of proper calibration protocols for surface environments. TSA's OTWE is involved with this project to define specific training requirements for any technologies deployed on VIPR operations, specifically TSO use of Multi-Modal Trace Detection technology.

Recommendation #16: Conduct an evaluation to determine what safety and protective gear should be provided to OSO assets when participating on VIPR operations.

TSA concurs.

TSA is currently assessing how OSO assets should participate in VIPR operations. The results of that assessment can affect safety and protective equipment requirements for OSO assets. Building from that assessment, the VIPR Program can assess both the safety and protective equipment needs for all VIPR personnel types that participate in VIPR operations. The findings from these evaluations will also inform the VIPR training development process.

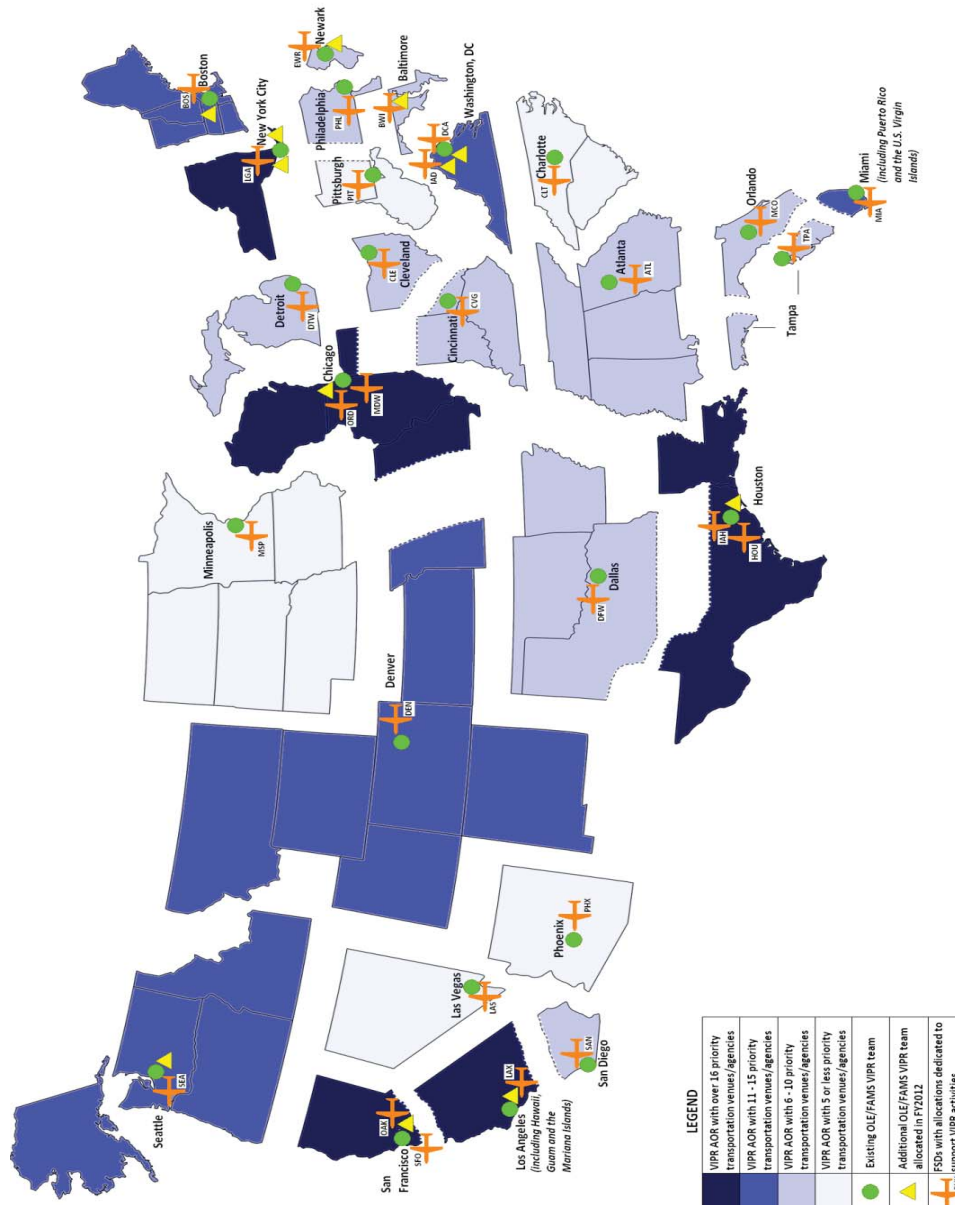


OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Appendix D

Distribution of Priority Transportation Venues and Entities by VIPR Team Areas of Responsibility





Appendix E

Major Contributors to This Report

Marcia Moxey Hodges, Chief Inspector
Angela Garvin, Team Lead Inspector
Katherine Roberts, Senior Inspector
Kimberley Lake de Pulla, Senior Inspector
Morgan Ferguson, Inspector



Appendix F

Report Distribution

Department of Homeland Security

Secretary
Deputy Secretary
Chief of Staff
Deputy Chief of Staff
General Counsel
Executive Secretary
Director, GAO/OIG Liaison Office
Assistant Secretary for Office of Policy
Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
Under Secretary, National Protection and Programs Directorate
Commandant, U.S. Coast Guard
Director, U.S. Secret Service
Director of Local Affairs, Office of Intergovernmental Affairs
Director, Domestic Nuclear Detection Office
TSA Audit Liaison
NPPD Audit Liaison
USCG Audit Liaison
U.S. Secret Service Audit Liaison
DNDO Audit Liaison

U.S. Department of Transportation

Federal Railroad Administration
Federal Transit Administration
Federal Motor Carrier Safety Administration
GAO/OIG Liaison



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Congress

Congressional Oversight and Appropriations Committees, as appropriate

ADDITIONAL INFORMATION AND COPIES

To obtain additional copies of this document, please call us at (202) 254-4100, fax your request to (202) 254-4305, or e-mail your request to our Office of Inspector General (OIG) Office of Public Affairs at: DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

For additional information, visit our website at: www.oig.dhs.gov, or follow us on Twitter at: [@dhsoig](https://twitter.com/dhsoig).

OIG HOTLINE

To expedite the reporting of alleged fraud, waste, abuse or mismanagement, or any other kinds of criminal or noncriminal misconduct relative to Department of Homeland Security (DHS) programs and operations, please visit our website at www.oig.dhs.gov and click on the red tab titled "Hotline" to report. You will be directed to complete and submit an automated DHS OIG Investigative Referral Submission Form. Submission through our website ensures that your complaint will be promptly received and reviewed by DHS OIG.

Should you be unable to access our website, you may submit your complaint in writing to: DHS Office of Inspector General, Attention: Office of Investigations Hotline, 245 Murray Drive, SW, Building 410/Mail Stop 2600, Washington, DC, 20528; or you may call 1 (800) 323-8603; or fax it directly to us at (202) 254-4297.

The OIG seeks to protect the identity of each writer and caller.